FRA RAILROAD SAFETY PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 2301

TO AMEND THE FEDERAL RAILROAD SAFETY ACT OF 1970 AND OTHER RAIL SAFETY ACTS

APRIL 13, 1982

Serial No. 97-110

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE
93-510 O WASHINGTON : 1982

S261-46

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

BOB PACKWOOD, Oregon, *Chairman*

BARRY GOLDWATER, Arizona	HOWARD W. CANNON, Nevada
HARRISON H. SCHMITT, New Mexico	RUSSELL B. LONG, Louisiana
JOHN C. DANFORTH, Missouri	ERNEST F. HOLLINGS, South Carolina
NANCY LANDON KASSEBAUM, Kansas	DANIEL K. INOUYE, Hawaii
LARRY PRESSLER, South Dakota	WENDELL H. FORD, Kentucky
SLADE GORTON, Washington	DONALD W. RIEGLE, JR., Michigan
TED STEVENS, Alaska	J. JAMES EXON, Nebraska
BOB KASTEN, Wisconsin	HOWELL HEFLIN, Alabama

WILLIAM M. DIEFENDERFER, *Chief Counsel*
GERALD J. KOVACH, *General Counsel*
AUBREY L. SARVIS, *Minority Chief Counsel*
EDWIN K. HALL, *Minority General Counsel*

SUBCOMMITTEE ON SURFACE TRANSPORTATION

JOHN C. DANFORTH, Missouri, *Chairman*

LARRY PRESSLER, South Dakota	RUSSELL B. LONG, Louisiana
HARRISON H. SCHMITT, New Mexico	ERNEST F. HOLLINGS, South Carolina
NANCY LANDON KASSEBAUM, Kansas	DONALD W. RIEGLE, JR., Michigan
SLADE GORTON, Washington	HOWELL HEFLIN, Alabama

CONTENTS

	Page
Opening statement by Senator Danforth	1
Text of S. 2301	2

LIST OF WITNESSES

Blanchette, Hon. Robert W., Administrator, Federal Railroad Administration, accompanied by Joseph Walsh, Head, Office of Safety, and Michael Haley, acting Chief Counsel	5
Prepared statement	9
Questions of the Committee and the answers thereto	15
Cochran, Frank D., chairman, Tennessee Public Service Commission; Charlotte Musgrave, commissioner, Missouri Public Service Commission; and William T. Druhan, assistant to the director, American Association of State Highway Transportation Officials	62
Prepared statement	66
Letters of:	
April 15, 1982	69
April 20, 1982	70
Dempsey, William H., president and chief executive officer, Association of American Railroads, accompanied by William J. Harris, vice president of research and text; and A. William Johnston, vice president of operations and maintenance	28
Prepared statement	33
Goldman, Patricia, Member, National Transportation Safety Board, accompanied by Thomas De W. Styles, Deputy Director for Management, Bureau of Accident Investigation; and Harold E. Storey, Chief, Railroad Accident Division, Bureau of Accident Investigation	16
Prepared statement	23
Questions of the Committee and the answers thereto	27
Westphal, A. W., legislative research director, United Transportation Union, accompanied by Lawrence M. Mann, counsel to Railway Labor Executives Association	51
Prepared statement	57
Letter of April 16, 1982	61

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Florida Department of Transportation, statement	78
Hardy, George E., chairman, National Association of Regulatory Utility Commissioners' Staff, Public Utility Commissioner of Oregon, letter of April 16, 1982	79
Hennessy, W. C., statement	75
Iowa Department of Transportation, statement	77
National Association of Regulatory Utility Commissioners, statement	73

FRA RAILROAD SAFETY PROGRAM

TUESDAY, APRIL 13, 1982

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room 235, Russell Senate Office Building, Hon. John C. Danforth (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Pamela Garvie, Staff Counsel and Linda Morgan, Minority Staff Counsel.

OPENING STATEMENT BY SENATOR DANFORTH

Senator DANFORTH. This is a hearing on the Federal Railroad Administration's railroad safety program. I have an opening statement that I will read in the record.

Today, the Subcommittee on Surface Transportation will be examining the Federal Railroad Administration's (FRA) railroad safety program. Under the terms of this program, the FRA is responsible for:

One, developing and implementing programs to improve safety in the industry;

Two, enforcing Federal safety laws; and

Three, participating in safety-related research and development.

With the authorization for the program due to expire at the end of this fiscal year, the subcommittee is using the opportunity to examine the effectiveness of FRA's program in reducing railroad accidents, fatalities, and other related mishaps. As part of this examination, we'll be looking at the results of a combined effort by the FRA, railroad management, and railroad labor to update the safety laws and resolve safety problems. We will also be considering the provisions of S. 2301, a bill introduced by Senator Packwood and myself on behalf of the administration. This bill reauthorizes the FRA safety program for 2 years and makes a couple of changes in the railroad safety laws. Finally, we will be scrutinizing the possible impact of the administration's proposal to eliminate Federal funding for the State enforcement program. Concern has been expressed that this proposal may adversely affect railroad safety and actually increase the cost to the Federal Government of safety enforcement.

In addition to the testimony given today, the subcommittee welcomes the statements of other individuals and groups. The record will be open for 2 weeks to receive such written statements.

[The bill follows:]

II

97TH CONGRESS
2D SESSION

S. 2301

To amend the Federal Railroad Safety Act of 1970 and other rail safety acts.

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, FEBRUARY 22), 1982

Mr. PACKWOOD (for himself and Mr. DANFORTH) (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To amend the Federal Railroad Safety Act of 1970 and other rail safety acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1982".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding immediately after subsection (b) the following:

"(c) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $29,300,000 for the fiscal year ending September 30, 1983, and such sums as may be necessary for the fiscal year ending September 30, 1984.".

MOVEMENT FOR REPAIR

SEC. 3. Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking all from ", such car may be hauled from the place where such equipment was first discovered to be defective or insecure" through "shall be at the sole risk of the carrier,", and inserting in lieu thereof the following: "or by a connecting carrier upon the connecting line of railroad, such car may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point on the line of railroad on which the car was discovered to be defective where such car can be repaired, or, at the option of a connecting carrier, such car may also be hauled to the nearest available point on the line of a connecting carrier where such car can be repaired, if such point is no farther than the nearest available point on the line on which the car was discovered to be defective, without liability for the penalties imposed by this section or section 6 of this Act, if any such movement is necessary to

make such repairs and such repairs cannot be made except at any such point; any such movement or hauling of such car shall be at the sole risk of the carrier involved,".

ASH PAN ACT

SEC. 4. The Act of May 30, 1908 (45 U.S.C. 17 through 21), commonly referred to as the Ash Pan Act, is repealed.

Senator DANFORTH. The first witness is Mr. Robert Blanchette, who is the Administrator of the Federal Railroad Administration.

STATEMENT OF HON. ROBERT W. BLANCHETTE, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION, ACCOMPANIED BY JOSEPH WALSH, HEAD, OFFICE OF SAFETY, AND MICHAEL HALEY, ACTING CHIEF COUNSEL

Mr. BLANCHETTE. Thank you, Mr. Chairman. It is a pleasure to be here once again.

I want to introduce my colleagues at the table. To my left is Mr. Joseph Walsh, who heads our Office of Safety, and on my right and your left is Mr. Mike Haley, who is serving as our chief counsel.

With your leave, Mr. Chairman, I will ask that my testimony and the summary thereof be included in the record of this hearing, and I shall summarize it.

I think looking at our safety reauthorization bill is a useful exercise for us to look both forward and backward over the last 14 months or so. I think we take some pride at the Federal Railroad Administration in the last 14 months in the evolution of our programs and policies on safety, and I guess to some limited degree the proof of the pudding is in the statistics.

We witnessed in 1981 a marked decline in railroad accidents, a 24-percent decline after adjusting for seasonal and economic factors in accidents, 10-percent decline in injuries and fatalities. I recognize that the story cannot be told in statistics alone because one single calamity, one single catastrophe could skew the statistics, but we point to a variety of other areas where I think we are making notable progress.

We have embarked on a course, a joint venture with labor and management to improve the railroad safety statistics, to improve the livelihood that the railroad laborers have in the industry, and I think we are making some strides there. I know that sometimes you take a step backward for every two forward.

This has never been done before. A joint venture among Government, labor, and management in the safety area is untried, and there are fits and starts and detours but no frolics, and I think that we are working forward in good faith and good will with all of them, and as we look forward to continue these policies, I am pleased that we have an actual increase in our safety budget.

We propose in fiscal 1983, 20 more safety inspectors, that plus a complement of some 26 inspectors that we will hire between now and the end of this fiscal year will give us over 40 new inspectors to do the job with.

We also have an increase in our research and development. Past research and development activities at the Federal Railroad Administration were a mixed bag. They were a combination of safety research, a combination of commercial and technical research not related to safety, and actually there was in it a line item for policy development.

We have wrested those things away from safety research, and our entire research budget for fiscal 1983 is in the safety area. So we have an arsenal of weapons of some $49.3 million to pursue our

programs in the safety area. I think that it is a tight budget but it is an increased budget, and I think we can do the job with that.

I would like to make a footnote observation. The administration has proposed as part of the budget exercise for fiscal 1983 not to fund the State participation program, the State safety program. There are at present some 94 State inspectors who are funded up to 50 percent by Federal funds. I say 94. Of those 94, 8 are funded solely by State funds. The remainder are 50-50 funded by Federal and State auspices.

The administration does not propose to eliminate the State participation program. The proposal is a budgetary one and not one which goes to the substantive merits of the State participation program. Indeed, we have under active consideration a revision of our State safety program to expand the jurisdictional area that the State inspectors can assist us in.

Second and most importantly, the increase that we seek in the 1983 budget for Federal safety inspectors is not an in lieu of substitution for the State program. I would implore you that whether or not you agree with the position of the administration on funding of the State safety program, that you not alter our recommendations in respect of the additional 20 Federal inspectors.

It is not an exercise that says 20 Feds are worth 94 States, and therefore cut the 94 and give us the 20. The 20 stands or falls on their own merits. We believe it is critically important that we have those Federal inspectors even though this committee might disagree with the administration's budgetary proposals on the State safety program.

The other aspect of our program, of course, incorporates the third leg of a tripartite agreement that we are striving to reach with railroad labor and management, two in the regulatory arena, a modification of the so-called power brake rule, second, modifications to the track standards, the regulations in track standards. A third leg of that is the car interchange or the repair rule, which is alluded to in my testimony. That is a substantive change in the law.

We also, in a spirit of high controversy and recklessness, saw fit to put a demise to the Ashpan Act of 1908. We would have liked to forge a consensus as we did in other areas. We could not find parties on either side who could remember the Ashpan Act of 1908. Frankly, the world will little note or remember the retention or the repeal of that statute, but we thought that in the spirit of cleaning up the United States Code, we would make a stab at it.

Thank you, Mr. Chairman. I will be pleased to answer your questions.

Senator DANFORTH. Was the Vice President personally involved in repealing the Ashpan Act?

Mr. BLANCHETTE. I think he made some editorial revisions to our repeal.

Senator DANFORTH. Let me ask you about the State program, the 50-50 program. What does it cost—$2.5 million?

Mr. BLANCHETTE. I think that is $2.3 million to $2.5 million, assuming a certain level of participation.

Senator DANFORTH. That $2.5 million leverages 86 State inspectors. That is a pretty good investment, isn't it?

Mr. BLANCHETTE. I won't give you the rate of return on it. I suppose it is. However, I am frankly a little disappointd in the State participation program. At the time the program was started, there were already 13 States that were contributing of their own resources. We had hoped that the States would participate to the extent of having on board at this time 140 inspectors.

There has not been forthcoming that degree of interest, frankly, that we had ourselves at the FRA anticipated, but it is true that we can pay up to 50 percent on the basis of the present record, and $2.5 million leverages 94.

Senator DANFORTH. I realize you do not want to say, well, let's pick up the State people and not the Federal people, but how much will the 20 additional Federal people cost?

Mr. BLANCHETTE. I will have to furnish that for the record. The reason we can now hire Federal inspectors is that we are able to get the Civil Service Commission to agree that we can hire at the GS–12 level, and I can give you for the record the actual dollar costs of those 20 Federal inspectors, but we pay all of them plus the fringes. I mean they are full-time employees.

[The following information was subsequently received for the record:]

The Federal Railroad Administration estimates that the full-year cost of an additional 20 safety inspector positions for salaries and related expenses is $1.1 million. Full-year funding is necessary so that the positions can be filled at the beginning of the fiscal year. Travel-related costs for the new inspector positions constitute $150,000 of the request, to meet the Congressional directive to provide at least 15 days of travel time per month per inspector.

Senator DANFORTH. I understand you don't want to have an either-or situation here, but it seems to me that the fact that you want 20 additional Federal employees is recognition of the fact that it does take people to conduct any kind of an inspection program. Therefore, you say you want 20, but for $2.5 million, the leverage is 86 State inspectors. We want to say it is $2.5 million.

Mr. BLANCHETTE. Well, we don't believe, in all fairness, that were the administration's budgetary proposal not to be accepted, or to be accepted, that those 94 State inspectors would go away, because even before the institution of this program, some 13 of the States already had 50 inspectors. So, I would hope and I want the record to reflect that we are not anticipating a disappearance of that program, because it was there and alive, and Federal activism in the way of funding has not given it a greater germination than it otherwise seemed to have had.

Senator DANFORTH. Do you have any suggestion for the States as to what to do? Would you say, just pick it up yourselves if you want to do it?

Mr. BLANCHETTE. Well, we would be pleased to work with the States in anticipation that whatever happens, there will be State inspectors and we will try to work with them to enhance their own resource allocation in those areas.

Senator DANFORTH. It is my understanding that the FRA has moved away from a policy of fairly automatic fines in the case of violations to a much more flexible approach, an approach permitting the forgiveness of some fines and the correction of violations.

There are those, I understand, who take the position that this is a backward step with respect to railroad safety.

Mr. BLANCHETTE. Well, I think that those who criticize the program ought first to read it, because I notice in some of the comments, and I haven't, obviously, read them, but it is quite clear that we have not backed away from fines and penalties. We have added to the arsenal of weapons rather than saying the only thing you can be at the FRA is a traffic cop. We are saying that in addition to being a traffic cop and perhaps most importantly in the arsenal of weapons is collaboration, suasion, and getting the attention of top management.

I found, Mr. Chairman, when I was at the Penn Central when we were operating what some people kindly called a railroad, that violations, fines and penalties never got to the level of top management, and that is because the lower levels of management have had every interest in the world in passing off those fines and penalties as a cost of doing business.

They didn't want the boss to know they were violating the Safety Appliance Act. They didn't want the boss to know that they were engaged in unsafe practices, and they would just as soon keep those fines and penalties buried in the bowels of the ship. I would rather get on the phone and call the president of the railroad because that ripples down. That is a much more effective way of enforcing railroad safety, to get the attention of the top management.

Now, I can assure this committee, as I have assured railroad labor, that we are continuing to assess fines and penalties where it is necessary to do so, and in those instances where there is a labor-management agreement in a certain area such as the power brake rule, such as the track standards, any violation of that agreement will be subject to immediate imposition of fines or penalties because that is the breaking of a gentleman's agreement and we will not countenance it.

So I would respectfully suggest to those who criticize our approach to read the system safety plan carefully and they will find that their fears are allayed.

Senator DANFORTH. Can you tell us when we can expect a rule relating to the retrofitting of 105 tank cars with protective head shields and thermal protection systems?

Mr. BLANCHETTE. I would say that a rule will come or a recommendation will come from the Office of Safety to me sometime this summer. We will then, under the regulations of Government, have to mold an economic cost-benefit analysis. That is not something, a wound we have inflicted upon ourselves, it is a wound that is inflicted upon us.

I cannot give you a final answer, and there again is another example of what happens when there is not a consensus in the regulatory area. Where you can get a consensus, as we hopefully can have in the labor-management area, we can go from September to June and maybe earlier than that with an agreement hammered out and put into law.

The retrofit has been going on for some 2 years come June. Admittedly, it is a very complicated thing with a diversity of different kinds of cars and things. But when people want to do it the hard way without consensus and cooperation and we have to go by the

book with the economic cost-benefit analyses, listen to comments, listen to the lawyers ad infinitum, that kind of arrangement is not susceptible to an easy deadline and I cannot give you one.

Senator DANFORTH. The National Transportation Safety Board is concerned about it, isn't it?

Mr. BLANCHETTE. As are we, as are we, because there is not much sense in putting a regulation in by fiat only to have it overturned in the court. The parties cannot agree. I mean it is like the French National Assembly. There is somebody on each side of each issue. And we are going to have to do it under administrative process and it is going to take a long, long time.

Senator DANFORTH. Thank you very much, Mr. Blanchette.

Mr. BLANCHETTE. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF HON. ROBERT W. BLANCHETTE, FEDERAL RAILROAD ADMINISTRATOR

Mr. Chairman, and members of the Subcommittee, I am pleased to appear before you today to discuss the Federal Railroad Administration's railroad safety activities. The Chairman's letter of March 18 calling this hearing noted five areas that FRA should address. My testimony covers each of these topics, beginning with the reauthorization of the Federal rail safety program.

REAUTHORIZATION OF SAFETY PROGRAM

The Administration's bill, S. 2301, the "Federal Railroad Safety Authorization Act of 1982", consists of safety authorization requests for fiscal years 1983 and 1984 and two amendments to existing law.

The proposed safety program funding for fiscal year 1983 consists of two elements: (1) $29.3 million for general railroad safety operations, and (2) $20 million for railroad safety research and development authorized under the Department of Transportation Act.

Railroad safety is FRA's primary mission. During my stewardship, the agency has taken several initiatives, which I will discuss in detail later, to improve an already good record in this area. Rail labor and management have joined with FRA in an unprecedented effort to revise and improve rail safety statutes and regulations. The railroad industry is also actively working with FRA to identify and resolve safety problems through cooperation rather than confrontation. Our joint efforts are beginning to bear fruit; the accident statistics for calendar year 1981 show a material improvement over the previous year's results. The authorizations we seek will enable FRA to continue this progress.

Train accidents

During calendar year 1981, there was a marked decrease in train accidents compared to 1980, continuing a trend that began in 1979. (See Attachment A.)

The total number of reported railroad accidents (excluding grade crossing accidents) decreased from 8,205 in 1980 to 5,767 in 1981, a decline of about 30 percent.

Total injuries from all railroad accidents decreased from 62,246 in 1980 to 52,877 in 1981, and total fatalities declined from 1,417 in 1980 to 1,283 in 1981, decreases of approximately 10 percent and 15 percent, respectively.

Passenger train accidents declined from 142 in 1980 to 107 in 1981, and injuries from those accidents decreased from 126 to 11 for the same period, percentage declines of about 25 percent and 91 percent, respectively.

Hazardous materials releases reported to FRA decreased from 118 in 1980 to 77 in 1981, approximately a 35 percent decline.

The industry's record is good even when adjustments are made to reflect two factors. First, total train miles nationwide declined in 1981 to about 676 million from approximately 718 million in 1980, a 5.8 percent decline. In addition, the dollar damage threshold for reportable accidents increased from $2,900 to $3,700 to reflect inflation.

After the necessary adjustments, accidents declined by about 24 percent, and injuries and fatalities decreased by about 10 percent, between 1980 and 1981.

Many factors contributed to this improvement. For example, the Louisville and Nashville Railroad Company and the Illinois Central Gulf Railroad Company experienced respectively 72 percent and 45 percent declines in reported accidents. This

reduction accounted for almost 30 percent of the total reduction in reported railroad accidents in the industry for 1981.

We believe that the substantial safety improvements realized by these two railroads were largely the fruits of the prior joint efforts of management and FRA. FRA conducted systemwide assessments of the L&N and the ICG that comprehensively appraised all aspects of safety. FRA personnel worked closely with top L&N an ICG management to develop solutions for the safety problems uncovered by these assessments. This effort persuaded us that the use of systemwide assessments and cooperation with railroad management should become one of our ongoing programs.

Safety enforcement resources

FRA currently has a field force of 8 regional directors, 274 safety inspectors, and 46 clerical support employees. We are making an intensive effort to recruit 26 additional inspectors. In addition, for FY 1983, we are seeking authorization to hire 20 more safety inspectors and 4 clerical employees.

Railroad safety research and development

As noted earlier in my testimony, FRA is seeking $20 million in appropriations for railroad safety research and development for fiscal year 1983. These are the only funds for research and development that we are recommending for fiscal year 1983.

in fiscal year 1983, FRA plans to continue research on metallurgy, thermal insulation, and safety valves to improve tank car safety. FRA will also conduct research on improving safety performance of track and vehicle components, and on flaw detection techniques to prevent track and equipment failures. The Locomotive Research and Train Handling Evaluator, a device that simulates railroad operations, will be used to identify and study the safety risks inherent in common industry operating procedures, car handling methods, and car placement practices. FRA also plans to evaluate the effectiveness of a model engineer training program and study training needs for other railroad occupations. Portions of the tank car and of the track and equipment components research will be conducted at the Transportation Test Center.

TRANSPORTATION TEST CENTER

FRA proposes to transfer the operation of the Transportation Test Center to the private sector by September 30, 1982. FRA intends to continue to make substantial use of the Center for safety-related research and development, with $10.5 million planned for fiscal year 1983. The level of our usage, however, does not justify continuation of FRA funding of the entire operation of the Center. In addition, research concerning efficient and economical rail operations and commercial research and development of rail products should be conducted and financed by the railroad industry.

We anticipate that the transfer of the operation of the Center to the private sector will produce substantial savings to the Government. It costs the Government about $7 million annually, exclusive of research costs, just to operate the Center. At the same time, we expect the Center to be more fully and efficiently utilized after the transfer is made. We firmly believe that Federal withdrawal from the direct operation, maintenance and funding of the Center is advantageous to the Government, the railroad industry, and the general public, and will not adversely affect railroad safety.

SAFETY REGULATORY REFORM

FRA has instituted a review process to update or eliminate regulations where warranted by industry conditions. In connection with this effort, FRA has consulted with rail labor and management on appropriate changes in rail safety statutes and regulations. I want to highlight two accomplishments of this important effort:

RLEA/AAR recommendations.—In response to FRA's request for recommendations on needed changes to existing law, the Railway Labor Executives' Association and the Association of American Railroads agreed on a set of changes in the power brake and track regulations. As a result of this cooperative effort, proposed rules to implement the track and power brake recommendations were issued, and the public has had opportunities to make oral and written comments. FRA will shortly issue final rules implementing this historic labor-management accord.

RLEA and AAR also recommended that existing law be amended to permit a car with defective brakes or safety appliances to be interchanged between railroads if to do so would facilitate repair of the car. Section 3 of S. 2301, which I will discuss later in my testimony, would effectuate this recommendation.

Tank cars.—In January 1981, FRA published new safety requirements for certain tank cars used in the transport of hazardous materials. In order to prevent tank head punctures and release of hazardous chemicals in derailments, shelf couplers are now required on all tank cars under DOT Specification 105 (105 tank cars) and must be placed on all other tank cars by March 1, 1985. Protective head shields or thicker tank heads are also required on newly constructed 105 tank cars used to transport flammable gases, anhydrous ammonia, and ethylene oxide. To prevent the violent rupture of tank cars exposed to fire in derailments, high temperature thermal protection systems and larger capacity safety relief valves are required on newly built 105 cars used to transport flammable gases and ethylene oxide.

1980 SAFETY AUTHORIZATION ACT REQUIREMENTS

Section 16 of the Federal Railroad Safety Authorization Act of 1980 required FRA: (1) to submit to Congress a study on employee training in the railroad industry as it affects safety; (2) to make every possible effort to expedite promulgation of a final rule requiring retrofitting of 105 tank cars with shelf couplers; and (3) to submit to Congress a systems safety plan relating to FRA's activities in carrying out rail safety laws.

The employee training study was submitted to Congress on December 18, 1981. The report concluded that most train accidents caused by human factors can be traced to noncompliance with operating rules and that, rather than regulate railroad training, FRA can be most effective in this area by disseminating its safety research findings and developments to the industry.

As discussed earlier in my testimony, FRA published a final rule in January of 1981 requiring shelf couplers on all 105 tank cars.

In December 1981, the Department of Transportation transmitted to Congress its Systems Safety Plan, a management tool designed to improve railroad safety. The Plan emphasizes FRA's intention to improve railroad safety by working with railroads, shippers, and labor. I am pleased to report that his cooperative approach has produced significant gains during my first year as Administrator. I would like to cite several prominent examples:

During the first seven months of 1981, the Chicago and Northwestern suffered 21 "false proceeds" (i.e., a train signal incorrectly authorizes a train to enter track already occupied by another train). In August, FRA held a safety analysis conference with the CNW at which the underlyling problems were analyzed and solutions discussed. Subsequent to that conference, the number of false proceeds decreased dramatically (only 2 occurred from August 1981 through January 1982), an improvement directly attributable to these joint efforts.

Western Pacific employees lodged at Stockton, California raised numerous complaints with FRA of unsafe and unsanitary conditions. After consultations with FRA, the WP promptly took action to eliminate the objectionable conditions.

Southern Pacific employees lodged at Carlin, Nevada complained to FRA that the proximity of the lodgings to an area where hazardous materials switching was conducted made their quarters unsafe. Following an FRA investigation and consultation with the SP, the railroad issued remedial instructions.

In addition, the Plan establishes goals to reduce the rates of hazardous materials releases, passenger fatalities, employee fatalities, rail-highway grade crossing fatalities, and trespasser fatalities. These goals are to be achieved by directing FRA's monitoring efforts toward these priority areas, by improvement of railroad training programs, by educating the public to reduce rail-highway grade crossing and trespasser casualties, and by focusing FRA's research and development program strictly on safety-related projects.

The Plan is not cast in concrete; it are subject to the dynamics of changes in the railroad industry. Cooperative initiatives among management, labor, and Government will be encouraged, and an annual evaluation of the Plan will be held to determine whether changes are needed.

STATE PARTICIPATION FUNDING

FRA is proposing to eliminate Federal funding of Grants-in-Aid for the state railroad safety program in FY 1983. I want to emphasize, however, that FRA does not propose to restrict or remove the safety authority of the state inspectors. To the contrary, FRA is currently revising the implementing regulations for this program to expand the jurisdiction of the state inspectors. FRA continues to support the concept of a Federal-state safety enforcement partnership, and anticipates that a number of states will want to continue their individual programs using state funds.

RAIL COMMUTER JURISDICTION

FRA has traditionally exercised safety jurisdictionover rail commuter operations in the Northeast, much of which has been operated in recent years by carriers such as Conrail and the Long Island Rail Road. The Northest Rail Service Act of 1981 relieves Conrail from its commuter service obligations after December 31, 1982, and establishes Amtrak Commuter to supplant Conrail as a contract operator of commuter service on behalf of those commuter authorities that elect to engage its services.

We are actively working with Commuter Corporation and the commuter authorities to develop proposals for the transfer of commuter operations. All parties agree that rail commuter operations, regardless of the identity of the operator, must be subject to effective safety jurisidiction. Depending on the circumstances, such jurisdiction may be best exercised at the Federal, state, or local level. The issue of what entity will exercise safety authority over the commuter operations and the form it will take will be resolved during the development of the transfer proposals.

INTERCHANGE RULE

Finally, I would like to discuss the only substantive amendment to existing law included in S. 2301, the change to the interchange rule.[1]

Section 3 of the bill would amend section 4 of the Safety Appliance Acts (45 U.S.C. §13) to permit a receiving carrier to accept and move a defective car for repair to the nearest available repair point on that carrier. Two conditions would be placed on this movement: (1) the repair point on the receiving carrier must be no farther than the nearest point on the delivering carrier; and (2) the receiving carrier must agree to accept and repair the defective car.

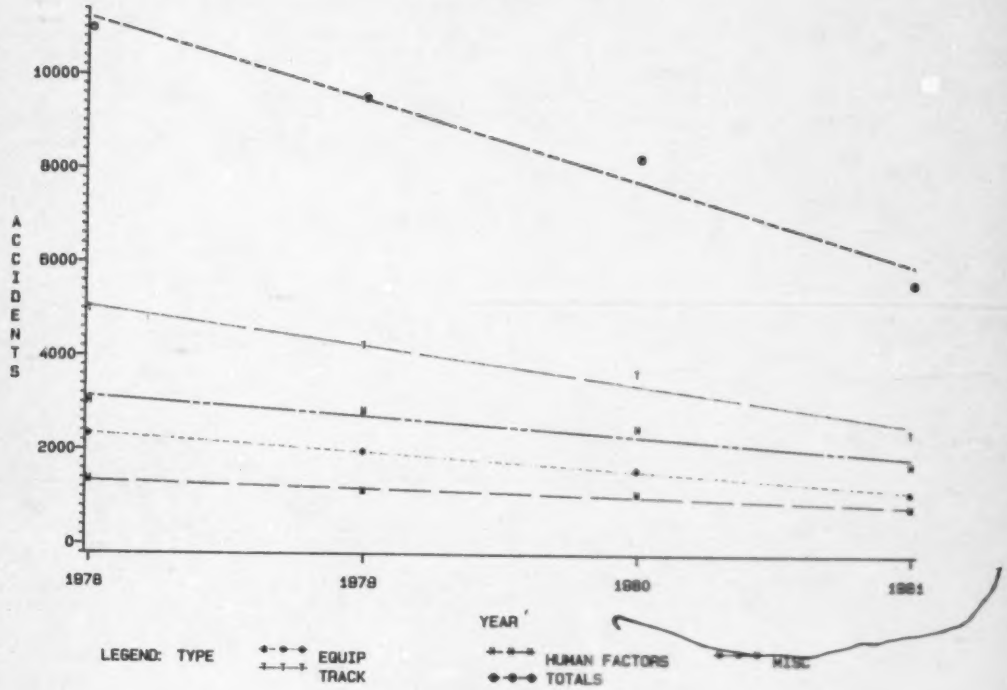
Present law permits the carrier discovering a defect to move the car to the nearest available repair point on its own line, but prohibits interchange of the car. As a result, defective cars must frequently be hauled greater distances for repairs than would be necessary if a connecting carrier could accept and repair the car. As I noted earlier, this proposed change was one of the recommendations jointly made by the RLEA and the AAR.

Mr. Chairman, this completes my prepared statement. My associates and I would be happy to respond to any questions the Subcommittee may have.

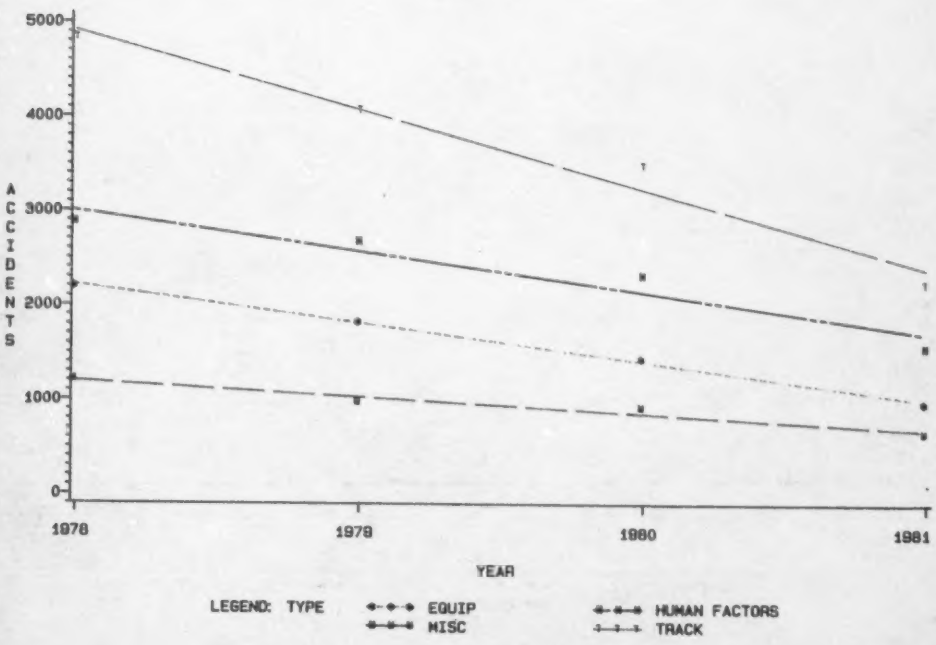
[Attachment A follows:]

[1] Section 4 of the bill would repeal the Ash Pan Act (45 U.S.C. §§17-21), a statutory anachronism that applies only to steam locomotives. Existing FRA regulations imposing identical safety requirements would be unaffected by the repeal because they are promulgated under other authority. Because the remaining requirements would be regulatory rather than statutory, FRA would have greater flexibility in dealing with future problems, to the extent any arise.

ACCIDENTS

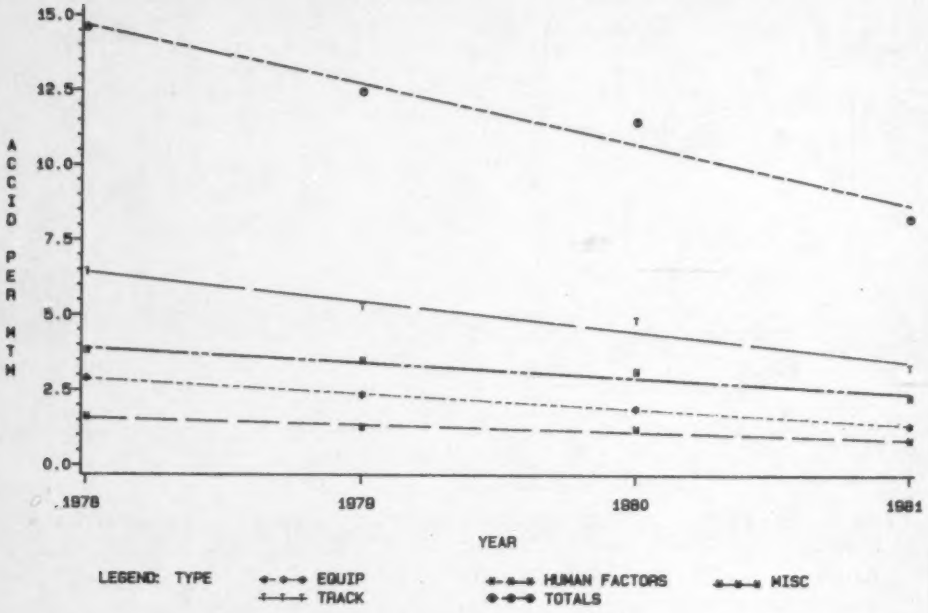


ACCIDENTS

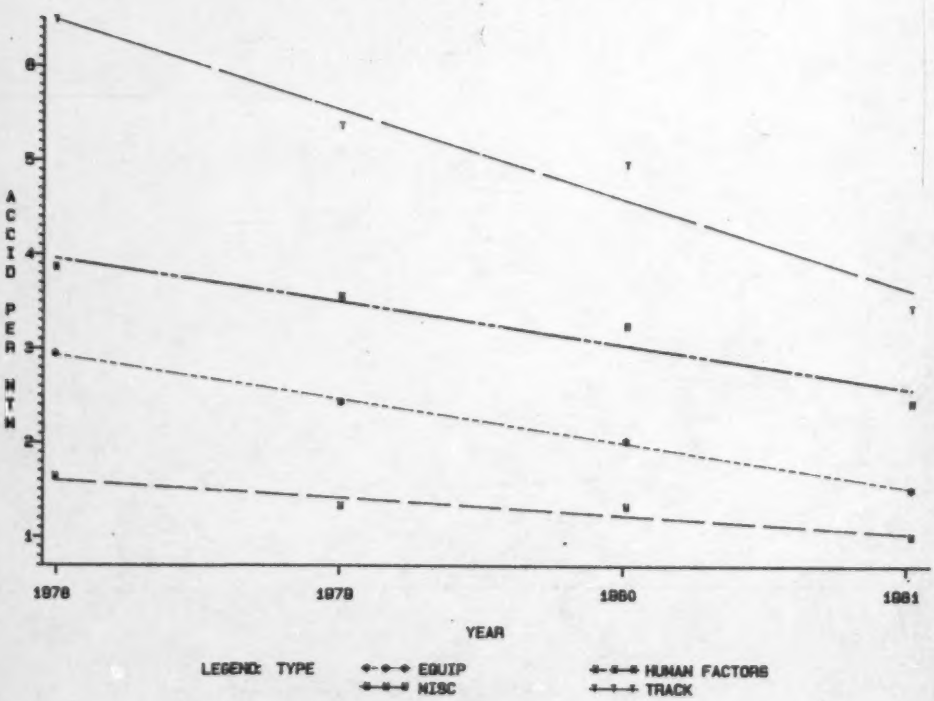


93-510 O—82——3

ACCIDENTS PER MILLION TRAIN MILES



ACCIDENTS PER MILLION TRAIN MILES



[The following information was subsequently received for the record:]

U.S. DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
Washington, D.C., April 20, 1982.

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on Surface Transportation, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your recent letter requesting that I respond to five questions on matterss that arose at the recent hearing concerning S. 2101.

My responses to those questions are enclosed for the record. I appreciate the opportunity to explain our safety program.

Sincerely,

ROBERT W. BLANCHETTE.

Enclosure,

EMPLOYEE ALCOHOL AND DRUG ABUSE

Question. What role does FRA play and what progress has FRA made in the last year to reduce employee alcohol and drug related problems in the railroad industry?

Answer. FRA should continue its present practice of serving as a catalyst for the industry. In 1981, FRA addressed alcohol and drug problems in three separate projects. We worked with the Milwaukee to help develop an effective program to reach the on-the-job drinker before his problem becomes chronic or critical. In another instance, we worked with Amtrak to help in the training of some 300 persons in peer intervention techniques which resulted in a doubling of the number of individuals referred for alcohol and drug abuse counseling. Finally, we assisted in seminars at the Houston and St. Louis terminals and in the New England area to increase understanding and awareness of the problem. FRA is also co-sponsoring a National Conference on alcohol and drug abuse in June of 1982 to discuss innovative approaches to this problem.

I have recently commissioned an inquiry to determine what the railroad industry is doing in this area. The results of that inquiry will be available prior to the National Conference; I should be pleased to share its contents with you.

RAILROAD EMPLOYEE TRAINING

Question. What is FRA's position on the role of the Federal Government in the training of railroad employees?

Answer. FRA's role is a mixture of regulatory action and cooperative assistance. FRA has required railroads to instruct periodically their employees on the meaning and application of their operating rules and to conduct operational testing to determine both their level of knowledge and actual compliance. This regulation is found in Part 217, Title 49 of the Code of Federal Regulations.

FRA places primary reliance on the individual railroads to develop and sponsor the appropriate training and instruction program. However, we do monitor and assess their efforts and, if deficiencies appear, FRA works cooperatively to improve the situation. FRA is currently working with one railroad, the Louisville and Nashville, to improve their locomotive engineer training program. In this instance FRA is also providing funds for a joint labor-management research program to evaluate the effectiveness of this model program.

NTSB RECOMMENDATIONS

Question. What steps do you think could be taken to improve communications between FRA and NSTB?

Answer. Our current practice of conducting infrequent staff level meetings with NTSB obviously has not been totally effective. I think there is a need to involve higher levels of management from both organizations to assure that there is a better understanding of the NSTB's recommendations and the rationales that support them. I also think there is a need to address some of the conceptual or philosophic differences between our agencies particularly the lack of analysis of the cost and benefit implications for the recommendations . To establish a better dialogue with NTSB, I have instructed my Associate Administrator for Safety to schedule a meeting with the appropriate members of the Board in the immediate future.

SMALL RAILROADS

Question. Has FRA done anything to accommodate the special problems encountered by small railroads?

Answer. FRA has been accommodating the problems encountered by small railroads by granting them individual waivers of compliance in appropriate circumstances. I have not been totally satisfied with this approach. To find a better solution, I initiated a series of hearings in September 1981 to obtain information on the appropriateness of deregulating small railroads. FRA is reviewing the data obtained during these hearings and I anticipate initiating a rulemaking proceedings on this issue during the summer of 1982.

STATE PARTICIPATION

Question. Is the State enforcement program duplicative of the Federal one? What are you doing to avoid duplication?

Answer. In the past, there has been duplication of effort but FRA has been working to eliminate that problem. Beginning in 1981, FRA regional managers developed joint programs with State program managers to schedule more effectively our inspection activities. This scheduling approach has virtually eliminated duplication of effort and resulted in the more uniform and efficient use of Federal and State resources.

Senator DANFORTH. The next witness is Patricia Goldman, National Transportation Safety Board.

Please proceed.

STATEMENT OF PATRICIA GOLDMAN, MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD, ACCOMPANIED BY THOMAS DE W. STYLES, DEPUTY DIRECTOR FOR MANAGEMENT, BUREAU OF ACCIDENT INVESTIGATION; AND HAROLD E. STOREY, CHIEF, RAILROAD ACCIDENT DIVISION, BUREAU OF ACCIDENT INVESTIGATION

Ms. GOLDMAN. Thank you, Mr. Chairman. I am pleased to be here this morning to present the views of the National Transportation Safety Board on the Federal Railroad Administration's railroad safety activities.

Before I begin my prepared remarks, I would like to introduce the other staff members here at the table with me. On my right is Mr. Thomas Styles, deputy director for management of the Bureau of Accident Investigation, and on my left is Mr. Harold Storey, who is the Chief of our Railroad Accident Division in the Bureau of Accident Investigation.

The subcommittee has asked the Board to address four major areas related to the FRA's rail safety program. Therefore, I would like first to address the Board's assessment of the overall effectiveness of the FRA's rail safety program.

Since the program itself sets no clearly defined goals or objectives, the Safety Board has found it difficult to give you a precise evaluation of that safety program. However, we do feel that by looking at the accident statistics over the past 5 years, we can get some measure of the overall impact.

Looking at the FRA's accident statistics for the period of 1976 through 1980, the overall status of rail safety appears to have been improving. The train accidents increased during the period of 1976 to 1978, but since 1978, train accidents have shown a steady decline, and the preliminary figures for 1981 show that the downward accident trend is continuing.

While this overall picture is an encouraging one, the Safety Board would like to make a few observations regarding accident causation, which causes some problems. Looking at the causes of the train accidents during the same 5-year period which I mentioned, we note some interesting findings.

First, mechanical and electrical causes have steadily decreased from 21.2 percent of the total in 1976 to 17.3 percent in 1980. Accidents due to track defects as a causal area have decreased; however, as a percentage of all accidents they have remained relatively constant, varying only from 41.6 to 41.3 percent.

Most significant, unfortunately, is the increase in human factors as a primary cause. Human factors as a cause has shown a steady increase over the years, rising from 23 percent in 1976 to 27.5 percent in 1980. While it is impossible to identify any single factor as responsible for the overall decline in train accidents, we do believe that the FRA actions have played an important role in the improved safety profile.

While we are pleased with this profile, there are several areas in which we feel FRA could do more to enhance safety. I would like to take a moment to outline two of those areas, which you have referred to earlier today, track standards and power brakes.

Recently the Safety Board has expressed its concern regarding a notice of proposed rulemaking which the FRA issued on track standards. Since the existing minimum track safety standards were adopted in October of 1971, the Safety Board has repeatedly supported the development of more effective track safety standards and has recommended improvements to correct safety problems related to track conditions as identified in major railroad accident investigations and safety study activities by the Board.

At least 19 of these recommendations concerning track safety standards to the FRA remain in what we call an open, unacceptable action status.

The Safety Board appreciates the fact that the elements of track structure must work in concert to absorb the dynamic forces in trains in order that railroad operations may be conducted safely. Much of the present knowledge about track structure capabilities and limitations is empirical, and this fact must be weighed constantly in relation to any proposed changes in the present requirements.

There is no proven methodology for predicting the reaction of track structure to the dynamic forces imposed by the trains, nor do there appear to be any scientific means for determining the interaction of the various elements of track structure, such as that one may determine when a particular track structure is no longer safe for specific dynamic loads imposed by trains.

The accident history of railroad operations repeatedly has shown that standards relating to track structure must include a safety margin sufficient to reflect the inability to predict with reasonable accuracy the effects of specific operating conditions upon safety.

The Safety Board believes that the proposed standards, which are not as stringent as the current standards, do not provide that adequate margin of safety we have sought. We are particularly concerned since the proposed lower track standards will increase

the likelihood of derailment and subsequent catastrophic release of hazardous materials.

We strongly have recommended that the FRA not lessen the existing track safety standards until research and testing provides clear evidence that the proposed change will not adversely affect rail safety. We are not aware of any credible test data which supports the proposed rulemaking.

The second area of concern is also the subject of proposed rulemaking issued by FRA on February 18, 1982, to significantly reduce the required inspection and maintenance standards for power brakes in trains. The Safety Board believes that the present power brake requirements have served well the safety interests of the public and the rail industry.

The effectiveness of the present power brake rules is supported by a steady decline in the number of accidents related to mechanical causes over the past 5 years. The Board believes there is a direct relationship between the decline in such accidents and adherence by the rail industry to the existing power brake regulations.

The Safety Board believes that the FRA proposal to eliminate the present interchange and the 500-mile inspection requirements can be done without adversely affecting the safety of train operations if—and I would stress if—(a) trains are equipped with effective brake pipe flow indicators, and (b) power brake piston travel is measured and adjusted and worn brake shoes are replaced at the 1,000-mile inspection.

As a means for motivating the railroad industry to equip trains with improved braking systems, we feel the FRA should allow a railroad to eliminate the present interchange and 500-mile inspectional requirements only for trains equipped with effective brake pipe flow indicators.

We will continue to be concerned that the FRA does not now have sufficient resources to effectively monitor compliance with its present brake standards, nor do we believe that it has sufficient number of qualified personnel to effectively monitor compliance with the proposed requirements. Consequently, the proposed relaxation of the present requirements without a realistic expectation of voluntary compliance by the industry or effective monitoring of compliance by the FRA will lessen the present level of safety and will result in an increase in the number of brake-related accidents.

Since 1970, the Safety Board has made 32 recommendations to railroads, to FRA, and others urging improvement in power brake inspections. Also, we have investigated and reported on 16 accidents during the past 6 years in which noncompliance with the present power brake requirements was involved.

We believe that the circumstances of these accidents call for more stringent enforcement of the existing requirements for FRA. Until the industry demonstrates its commitment to comply with the present requirements and this is confirmed through the effective monitoring by the FRA, the Safety Board believes there is no basis to relax the existing power brake requirements.

In another area of concern, I would like to give one brief example of an NTSB recommendation which we have found necessary to reiterate to the FRA frequently. This recommendation concerns

the need for the railroad industry to operate radios with compatible frequencies. It is one the Board continues to believe would save lives.

This recommendation stems from very serious accidents which I have described in my testimony, and I think they make a compelling case for our previous recommendations. Radio contact from one train to another to establish meeting points is not allowed under the standard industrywide operating rules. However, a radio may be used to convey train location and other data from train to train.

The NTSB is concerned that although the trains in these accidents described in my testimony had operating radios, they were not able to communicate with each other because of incompatible frequencies. The inability to communicate increases the probability that accidents with serious loss of life and injuries similar to the ones described here will continue. Additionally, this inability to communicate could jeopardize a timely and effective response by emergency and rescue personnel if an accident does happen.

The third area of our testimony concerns the various studies and regulations that FRA was required to prepare under section 16 of the 1980 Safety Act.

The first area in which we have expressed our concern is the employee training study. As you recall, Mr. Chairman, the stated purpose of the study was "to conduct a study regarding employee training in the railroad industry as it affects railroad safety." Among other factors, it was to address the appropriate Federal roles, if any, in such training. In our view, the study never really specified what those roles should be.

In reading the Senate committee report accompanying the legislation requiring the study, the intent appears to be to determine whether the rail safety training programs are being consistently conducted throughout the industry and whether employees were participating. Based on the employee training study, we could not determine the extent of the industry's effort. The report did not indicate that training of maintenance and operating employees is related to the size of each railroad, its operation, or its financial resources. Moreover, training on the larger railroads is highly decentralized, and instruction is fragmented among various departments. This suggests that the emphasis on training varies according to budgetary constraints within these departments.

In this regard, there are two other studies, one conducted by the Transportation Systems Center and one by our own Board, which I will be glad to submit for the record, where we indicate a much lower accident rate for those railroads that have and use formal structured training methods and programs. While these results are based on limited data and should be considered tentative, they do appear to indicate the positive effect that rigorous employee training programs can have on improving the safety picture.

The other area which you related to in your earlier comments concerns the NTSB remarks and actions on tank car retrofit regulations. The Safety Board has regarded the FRA action on retrofit of the jumbo tank cars and application of shelf couplers as major safety accomplishments. However, there is still one outstanding priority on tank car regulation on which the Safety Board believes

expeditious action is required, and that is the proposed tank specifications on the DOT 105 and 111-type tank cars, that they be retrofitted with thermal and tank head end protection equal to that presently required for DOT specification 112 and 114 tank cars.

The Safety Board believes the FRA should accelerate the publication of this rulemaking action. Completion of this retrofit will further reduce the risk posed to the general public, emergency personnel, and railroad employees by the transportation of certain hazardous materials. It has been 1½ years since the publication of the advanced notice of proposed rulemaking, and the Safety Board believes the FRA should promptly publish the notice of proposed rulemaking.

We have also commented on the system safety plan that FRA has developed and Mr. Blanchette referred to, and we are concerned that it has not accomplished all of those areas that it was required to do.

I think that just about completes my testimony, and if you would like, I can comment later on our concern about the jurisdiction for commuter rails.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you very much.

What overall grade would you give the FRA?

Ms. GOLDMAN. I was referred to as a schoolteacher once by one of our staff, but I am not in the area of grading. I think it would depend on various levels. The FRA have been most cooperative with us in some areas. One area, as I mentioned earlier, is the tank car retrofit. But in others, in terms of their comparison to other agencies, they are last in response to our recommendations.

So if I were grading it on a scale, I would have to put them at the bottom of the scale contrasted with the other agencies.

Senator DANFORTH. So if they were on a curve, they would get an F.

Ms. GOLDMAN. That is your description of the grade, but they do come in last.

Senator DANFORTH. Why? Just say generally, without reiterating each specific point that you have made.

Ms. GOLDMAN. We have addressed many recommendations on track safety standards. Those have been almost suspended in terms of action, I understand, pending their new proposals. Since the new proposals do not meet the recommendations we have made, this is an area of almost a stalemate, I am afraid.

Senator DANFORTH. What is the reason for the low grade?

Ms. GOLDMAN. I cannot speak for Mr. Blanchette as to why. We have tried various negotiations at a staff level with the FRA to see what we might work out, and I would hope we will continue to do so.

Senator DANFORTH. Do you think that they are insensitive to matters of safety or do you think that they have a different theory of safety than you have, or what?

Ms. GOLDMAN. I think they perhaps have different priorities than we do. They are in a changing status in some of their areas. Because of the problems we have getting the FRA to adopt our recommendations, we have addressed fewer recommendations to FRA over the last 2 years and have begun making more of our proposals

directly to the railroads, the properties themselves, in terms of getting response.

This is not always as helpful. By the statute, the Federal agencies are required to respond to us and the private groups are not. But we have been meeting with some success by dealing directly with the industry itself.

Senator DANFORTH. When you would give the FRA an F, are you grading it on its agreement or disagreement with your agency, on its responsiveness or unresponsiveness to your agency, or are you grading it on the basis of its overall safety program? Or is there a difference?

Ms. GOLDMAN. I think there is a difference between just the recommendations and the overall safety program. In the overall safety program, we are concerned for example with the five objectives that they have set out in their system safety plan. I am rather perplexed as to how they arrived at the particular five areas. In terms of determining what are highest priority areas for safety, we look at causation of accidents in trying to make improvements. The FRA has set specific goals for 5 years, and I cannot determine, nor has the Board been able to determine, how they arrived at these. They do not, by our analyses, seem to be the safety areas that are showing up in the accidents.

For example, while human factors and track are the primary causes of accidents, you do not see any indication that that system safety plan addresses those two areas.

Senator DANFORTH. When Mr. Peck came here to testify at an oversight hearing on the National Highway Traffic Safety Administration, there was a question whether that particular agency really believed in the program. Why are they there? What are they doing? Are they trying to, in effect, dismantle the national highway traffic safety program, or do they have some alternate program for achieving safety?

What is your judgment on the FRA? Do you think that they are conscientiously seeking safety on the railroads? Do you think that it is a matter of a difference in priorities or do you think that for one reason or another, rail safety is not a very high priority with them and they are dismantling or weakening the effort?

Ms. GOLDMAN. I do not want to question their sincerity. I believe Mr. Blanchette feels, as he testified, that he is trying to get at the safety issue. Our experience seems to tell us, however, their methods are not going to achieve what we think they are aiming for.

Senator DANFORTH. Specifically with respect to human error-caused accidents or all accidents?

Ms. GOLDMAN. I think you can look at the area of training as an example. We recommended to FRA 2 years ago that it look at the employee training with regard to power brake inspections of a particular railroad.

After a series of accidents, we finally got their attention. We reiterated the 2-year-old recommendation to FRA. They then monitored the company's employee training, and there has been a dramatic improvement in that particular railroad. While individually we may think that it is a responsibility of the railroads, we have had direct correspondence from the chief executives of particular railroads, that the FRA sets the standards for them. FRA set the

boundaries, and the railroads look to them to set a particular standard. Whether that is the correct method or not, that is what the railroads are acknowledging. Therefore that is why we feel that the FRA should take a stronger role in examining employee training in the industry.

Senator DANFORTH. Do they disagree with that or is there some breakdown in communication between your agency and their agency?

Ms. GOLDMAN. Well, they have spent roughly 2 years on their study of employee training. That is why I expressed my, and I think the Board's, frustration with their response. The FRA, after doing this study, has still not squarely addressed the role of what is the Federal effort in employee training. And until they have squarely addressed that, I do not think we are going to come to some agreement on the subject.

Senator DANFORTH. Do you know why they do not address it? That is the question. I understand that there are differences of opinion between your agency and their agency.

Ms. GOLDMAN. I do not and I would hope perhaps we can sit down and try to explore it on a personal level between their agency and ours to see if we cannot come to some understanding.

Senator DANFORTH. Have you attempted that?

Ms. GOLDMAN. We certainly intend to.

Senator DANFORTH. Have you?

Ms. GOLDMAN. There have been meetings at a staff level before, and I think perhaps we need to elevate that discussion, with no reflection against the staff.

Senator DANFORTH. If you are regularly on the telephone with presidents of railroads, telling them to clear up this problem or that, it seems that the National Traffic Safety Board should be regularly on the phone with the FRA.

Ms. GOLDMAN. I think we should and I will convey that to my colleagues.

Senator DANFORTH. What is the reason for the human error factor increase?

Ms. GOLDMAN. They vary from accident to accident. One of the areas in which we have seen a great problem is the understanding and training of employees in the railroad rules, the need for recurrent training in that area, and an understanding of the operating rules.

Senator DANFORTH. Do you think that 5 years ago we had a better understanding by railroad employees?

Ms. GOLDMAN. One area where we see a problem is that newer people are coming into the railroad industry. I understand there has been a considerable turnover in personnel in the industry. That is one area that needs to be addressed as newer people come on board.

Senator DANFORTH. You mean the training programs that exist now are not as good as the training programs that existed 10 years ago or is it that the newer people coming on are not as competent?

Ms. GOLDMAN. I think the newer people are not as well trained on the job as the previous employees who are retiring. That is my understanding.

Mr. STYLES. Senator, I think it is a mixture of experience and training. The mix of employees, particularly operating employees, is considerably different from what it was some years ago. You are finding that a lot of the people who are my age who were hired before and during World War II and who have an awful lot of experience are now beginning to retire at a pretty high rate, and this will continue for a few years.

The people whom you are using to fill in behind these people just do not have as complete an experience, along with the training, to compensate for that change in mixture.

I think if you look purely at the training programs, without looking too much at the results, probably you would find a better grade of training, but I am afraid it has not related too well with the mixture of the people who are there and the amount of experience that the new people have.

Senator DANFORTH. Do you think the training programs are as good now as they were, but that the employees have experience, because the work force is younger now than it was a few years ago?

Mr. STYLES. I think so, yes, sir.

Ms. GOLDMAN. And it should be noted that the railroads are beginning to use some of the simulated efforts that we find in other areas of transportation, such as aviation. I think there needs to be more work done in that area by the railroads also.

Senator DANFORTH. OK, thank you very much.

Ms. GOLDMAN. Thank you.

[The statement follows:]

STATEMENT OF PATRICIA A. GOLDMAN, MEMBER NATIONAL TRANSPORTATION SAFETY BOARD

Mr. Chairman and Members of the Subcommittee, I am pleased to be here this morning to present the views of the National Transportation Safety Board on the Federal Railroad Administration's (FRA) railroad safety activities. Before I begin my prepared remarks, I would like to introduce members of the Safety Board staff here at the table with me. On my right is Mr. Thomas DeW. Styles, Deputy Director for Management, Bureau of Accident Investigation, and on my left is Mr. Harold E. Storey, Chief, Railroad Accident Division, Bureau of Accident Investigation.

The Subcommittee has asked the Board to address four major areas related to FRA's rail safety program. Those areas are: first, our assessment of the overall effectiveness of the FRA's rail safety program; second, FRA's response to Board recommendations regarding rail safety; third, our views on the studies and regulations prepared by FRA under Sec. 16 of the 1980 Rail Safety Act, and lastly, the Safety Board's position on expanding FRA's jurisdiction to include commuter rail lines.

Let me first turn to our assessment of the overall effectiveness of FRA's rail safety program. Since the program itself sets no clearly defined goals or objectives, the Safety Board finds it difficult to give a precise evaluation of the FRA's rail safety program. We can, however, look to accident statistics over the last five years as some measure of the overall impact of the Rail Safety Program.

Looking at FRA's accident statistics for the period 1976 through 1980, the overall status of rail safety appears to be improving. While train accidents increased during the period 1976 to 1978, since 1978, train accidents have shown a steady decline, and preliminary figures for 1981 show that downward accident trend continuing (from a peak of 11,277 accidents in 1978 to a preliminary count of less than 8,000 in 1981). While this overall picture is an encouraging one, the Safety Board would like to make a few observations concerning trends in accident causation.

Looking at the cause of train accidents during this five year period 1976 through 1980, we note some interesting findings. First, mechanical and electrical causes have steadily decreased from 21.2 percent of the total in 1976 to 17.3 percent in 1980. Accidents due to track defects as a causal area have decreased, however, as a percentage of all accidents have remained relatively constant over this period—varying only from 41.6 percent to 41.3 percent. Most significantly, unfortunately, is the in-

crease in human factors as a primary cause of train accidents. Human factors as a cause has shown a steady increase over the years rising from 23 percent in 1976 to 27.5 percent in 1980.

While it is impossible to identify any single factor as responsible for the overall decline in train accidents, we do believe that FRA actions have played an important role in the improved safety profile for the rail industry. While we are pleased with the improved safety profile, there are several areas in which we feel FRA could do more to enhance safety.

I'd like to take a moment to outline briefly two of those areas, track standards and power brakes. First, let me turn to track standards. Recently, the Safety Board has expressed its concern regarding a notice of proposed rulemaking issued by the FRA on track standards, dated Febraury 18, 1982.

Since the existing minimum track safety standards were adopted in October 1971, the Safety Board has repeatedly supported the development of more effective track safety standards and has recommended improvements to correct safety problems related to track conditions as identified in major railroad accident investigations and safety study activities. At least 19 of these recommendations concerning track safety standards to the FRA remain in an "Open—Unacceptable Action" status. The Safety Board appreciates the fact that the elements of track structure must work in concert to absorb the dynamic forces of trains in order that railroad operations may be conducted safely. Much of the present knowledge about track structure capabilities and limitations is empirical, and this fact must be weighed constantly in relation to any proposed changes in the present requirements. There is no proven methodology for predicting the reaction of a track structure to the dynamic forces imposed by trains. Nor does there appear to be any scientific means for determining the interaction of the various elements of track structure such that one may determine when a particular structure is no longer safe for specific dynamic loads imposed by trains.

The accident history of railroad operations repeatedly has shown that standards relating to the track structure must include a safety margin sufficient to reflect the inability to predict, with reasonable accuracy, the effects of specific operating conditions upon safety. The Safety Board believes that the proposed standards, which are not as stringent as current standards, do not provide an adequate margin for safety. We are particularly concerned since the proposed lower track standards will increase the likelihood of a derailment and subsequent catastrophic release of hazardous materials.

We strongly recommended that the FRA not lessen the existing track safety standards until research and testing provides clear evidence that the proposed change will not adversely affect rail safety. We are not aware of any credible test data which supports the proposed rulemaking.

The second area of concern, also the subject of proposed rulemaking issued February 18, 1982, is a proposal by FRA to significantly reduce the required inspection and maintenance standards for power brakes in trains. The Safety Board believes that the present power brake requirements have served well the safety interests of the public and the railroad industry. The effectiveness of the present power brake rules is supported by the steady decline in the number of accidents related to mechanical causes over the past five years. The Board believes there is a direct relationship between the decline in braking related accidents and adherence by the railroad industry to the existing power brake regulations.

The Safety Board believes that the FRA proposal to eliminate present interchange and 500 mile inspection requirements can be done without adversely affecting the safety of train operations if: (a) trains are equipped with effective brake pipe flow indicators and (b) power brake piston travel is measured and adjusted, and worn brake shoes are replaced at the 1,000 mile inspection. As a means for motivating the railroad industry to equip trains with improved braking systems, the FRA should allow a railroad to eliminate the present interchange and 500 mile inspection requirements only for trains equipped with effective brake flow pipe indicators.

We will continue to be concerned that the FRA does not now have sufficient resources to effectively monitor compliance with its present brake standards, nor do we believe that it has sufficient numbers of qualified personnel to effectively monitor compliance with the proposed requirements. Consequently, we believe that the proposed relaxation of the present requirements without a realistic expectation of voluntary compliance by the industry or effective monitoring of compliance by the FRA will lessen the present level of safety and will result in an increase in the number of brake related accidents.

Since 1970, the Safety Board has made 32 recommendations to railroads, to FRA, and others urging improvement in power brake inspections. Also, we have investi-

gated and reported on 16 accidents during the past six years in which non-compliance with the present power brake requirements was involved.

The Safety Board believes that the circumstances of these accidents calls for more stringent enforcement of the existing requirements by the FRA. Until the industry demonstrates its commitment to comply with the present requirements and this is confirmed through effective monitoring of compliance by the FRA, the Safety Board believes that there is no basis for the FRA to relax the existing brake requirements.

In another area of concern, I would like to give one brief example of an NTSB recommendation which we have found necessary to reiterate to the FRA. This recommendation, concerning the need for the railroad industry to operate radios with compatible frequencies, is one the Board continues to feel would save lives. This recommendation stems from three very serious accidents which I would like to describe to you.

On May 17, 1978, a northbound Missouri Pacific freight train struck the rear of a standing St. Louis Southwestern freight train near Gorham, Illinois, on a section of Missouri Pacific track over which the St. Louis Southwestern Railway Company has operating rights. The engineer and head brakeman on the striking train saw the impending collison and abandoned their train. They were unable to warn the occupants of the caboose since the radios were not equipped with a common operating frequency. The conductor inside the caboose was killed, and five employees on the two trains were injured. The total damage was estimated at $484,000.

In another accident on April 9, 1980, a Western Pacific Railroad Company train with Union Pacific Railroad locomotive as a lead unit derailed when excessive locomotive power was applied behind the caboose by a Western Pacific pusher locomotive. The train derailed at Hayward, California, and resulted in two employee fatalities, two employee injuries, and damage estmated at $1,382,000. The crew on the Union Pacific locomotive could not communicate or provide guidance regarding proper power application to the crew of the pusher locomotive because their radios operated on different frequencies.

In a third accident on February 1, 1981, a southbound Kansas City Southern train collided with a northbound Missouri Pacific extra train in New Roads, Louisiana. The trains collided 5 minutes after a meeting order had expired and 3 minutes after the Kansas City Southern train had left the designated meeting points. The accident resulted in damages totaling $555,000. Again, neither train could communicate with the other because of different radio operating frequencies.

Radio contact from one train to another to establish meeting points is not allowed under standard industry-wide operating rules; a however, a radio may be used to convey train location and other data from train to train. The National Transportation Safety Board is concerned that although the trains in the accidents just described had operating radios they were not able to communicate because of incompatible frequenceis. The inability to communicate increases the probability that accidents with serious loss of life and injuries similar to those described above will continue to occur. Additionally, this inability to communicate could jeopardize a timely and effective response by emergency and rescue personnel if an accident does happen.

The third area of our testimony concerns the various studies and regulations that FRA was required to prepare under section 16 of the 1980 Safety Act.

The first area I would like to address in this regard is the Employee Training Study. As you recall, Mr. Chairman, the stated purpose of this Study was "to conduct a study regarding employee training in the railroad industry as it affects railroad safety." Among other factors the study was to address was the appropriate Federal roles, if any, in such training. Our view of the study indicates the following:

While the report identifies several areas of Federal involvement, it never clearly concludes what the Federal role in safety training should be. The report appears to imply that there is an "appropriate Federal role" and that it should feature: (1) continued primary reliance on industry-sponsored training; (2) a cooperative, rather than punitive or regulator relationship with industry; and (3) system-wide safety assessments. While we may agree, the report never specifically identifies this as a finding or conclusion.

In reading the Senate Committee Report accompanying the legislation requiring this study, the intent appears to be to determine whether rail safety training programs were being consistently conducted throughout the industry and whether employees were participating. Based on the Employee Training Study, we could not determine the extent of industry's effort in this area. The report did indicate that the training of maintenance and operating employees is related to the size of each railroad, its operations, and its financial resources. Moreover, training on the larger railroads is highly decentralized and instruction is fragmented among various de-

partments. This suggests that emphasis on training varies according to budgetary constraints within those departments.

In this regard, two recent studies, one conducted by the Transportation Systems Center (TSC) and the other by the National Transportation Safety Board, indicate a much lower accident rate for those railroads that have and use formal, structured training methods and programs. While these results are based on limited data and should be considered tentative, they do appear to indicate the positive effect that rigorous employee training programs can have on improving the safety picture. These findings are encouraging and we would like to see a greater effort by the FRA to examine the industry's activities in safety training and further evaluate the impact on the safety picture.

The second area under the 1980 Act concerns tank car retrofit regulations. The Safety Board regards the FRA action on retrofit of the jumbo tank cars and application of shelf couplers to all DOT specified tank cars as major safety accomplishments. However, there is still one outstanding priority tank car regulation within the FRA that the Safety Board believes expeditious action is required. Advanced rulemaking action by FRA on July 21, 1980, proposed that certain tank cars specified as DOT 105 or DOT 111 be retrofitted with thermal and tank head end protection equal to that presently required for DOT specification 112 and 114 tank cars. The Safety Board continues to be concerned that certain dangerous hazardous materials; such as ethylene oxide, hydrochloric and hydrofluoric acids, chlorine, flammable compressed gases such as LPG, anhydrous ammonia and methyl bromide (poison), to name a few, are being shipped in tank cars (DOT 105 and 111) that do not meet minimum safety levels of protection from impact and fire. The Safety Board believes that the FRA should accelerate the publication of this rulemaking action. Completion of this retrofit will further reduce the risks posed to the general public, emergency personnel and railroad employees by the transportation of certain hazardous materials in these tank cars. It has been one and one-half years since the publication of the advanced notice of proposed rulemaking, and the Safety Board believes FRA should promptly publish the notice of proposed rulemaking.

Finally, let me turn to the FRA's system safety plan. The intent of the system safety plan was "to provide a policy statement and a proposed strategy for improving railroad safety." The plan's outline held out a promise of a detailed analysis of historical accident trends, objectives, alternative approaches to remedial action, resource allocation decisions, and feedback mechanisms for evaluating programs and recommending changes.

The end product bears no resemblance to either a plan or the legislative intent behind it. It merely identifies five types of accidents and general safety goals. The Board feels the plan lacks any analytical background and/or analysis in establishing seemingly arbitrary goals to be met over the next five years. More specifically, we feel a system safety plan should:

(1) Delineate its objectives;

(2) Explain rationale behind the problem areas;

(3) Describe what should be done to establish correct programs which address the problem areas.

As such, the Safety Board does not feel the methodology employed in this endeavor merit going forward with the system safety plan as it currently stands.

The final area in which you have asked the NTSB its views concerns the jurisdiction of FRA over commuter rail lines.

Current jurisdictional questions with regard to Federal oversight responsibility for rail safety on commuter lines may result in the end to a Federal role in this area. The Safety Board, with statutory responsibility to investigate certain rail accidents comes in "after the fact." We are not a regulatory agency and have no enforcement or inspection authority, nor do we seek it. In the past, Federal safety oversight for commuter lines such as those operated under Conrail lay squarely within the jurisdiction of the Federal Railroad Administration. However, with the changing ownership of many commuter rail lines, and court decisions affecting Federal jurisdiction over rail rapid safety, some commuter rail lines may not be subject to any safety oversight. The Board, in testimony before a House Subcommittee in January of this year, supports continued oversight of commuter rail lines.

This concludes our prepared remarks, Mr. Chairman. I would be happy to answer any questions you may have.

[The following information was subsequently received for the record:]

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C., April 22, 1982.

Hon. JOHN C. DANFORTH,
Chairman, Surface Transportation Subcommittee, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of April 15, 1982 submitting questions for the record regarding railroad safety. We are happy to be of assistance in this matter and the Safety Board's responses are below.

Question 1. In making recommendations to FRA, and in turn, in closing them out, do you take into account that FRA must make cost-benefit analyses of the recommendations?

Answer. The Safety Board identifies railroad safety issues and communicates them to the FRA with recommended corrective actions. Although the Safety Board does not actually make cost-benefit analyses in making and closing out recommendations, it is very much aware of the necessity for FRA to do so. It is the responsibility of the regulatory agency to determine how to best apply its safety dollar. In order for cost-benefit analyses to be effective, FRA must determine what levels of safety are acceptable and regulate to that level. The FRA does not have to implement our recommendations, but it does have to respond and rationalize its action or lack of action. Obviously, we often review cost-benefit analyses made by the FRA in evaluating responses to our recommendations.

Question 2. Are your recommendations based on any set of priorities?

Answer. The Safety Board's recommendations are developed as a result of accident investigations and safety studies and, therefore, are based on the priority places on those activities.

The majority of the railroad program is devoted to accident investigations. We routinely investigate all accidents involving a passenger or crew fatality, property damage over $500,000 and selected safety issues which the Board believes need special attention.

Safety studies are performed to evaluate the effectiveness of a safety program, to examine the technical aspects of a safety issue, or to advocate the accomplishment of a safety initiative. All of the studies are based on an explicit set of priorities established each year by the Board.

When recommendations are issued, the Board assigns a "priority classification" to them based on the following criteria:

(1) Class I—Urgent Action: Urgent commencement and completion of action is mandatory to avoid imminent loss of life or injury and/or extensive property loss.

(2) Class II—Priority Action: Priority commencent of action is necessary to avoid probable loss of life or injury and/or property loss.

(3) Class III—Longer/Term Action: Routine action is necessary so that possible future injury and loss of life and property may be avoided.

Question 3. What steps do you think could be taken to improve the communications between FRA and the Board?

Answer. We are disappointed that we have never been able to establish a full understanding, appreciation, and acceptance by FRA of the Safety Board's mission and position in the transportation safety field. Too often it appears that FRA perceives the Safety Board as an adversary whose ideas and recommendations require rebuttal. We need to establish with the FRA an acceptance of the fact that both agencies have specific responsiblities in enhancing safety which are complementary. Neither agency can accomplish the optimum level of safety alone. When this understanding is established, accepted and enforced by top management, better communications, and thus better safety, will result. To that end, a meeting between myself, the other Board Members and Administrator Blanchette has been arranged for May 11, 1982 to discuss this matter.

If you have further questions, or if we can be of assistance to you at any time in the future, please do not hesitate to contact us.

Respectfully yours,

JIM BURNETT, *Chairman.*

Senator DANFORTH. The next witness is William H. Dempsey, president and chief executive officer, Association of American Railroads.

What grade do you give the FRA, Mr. Dempsey?

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS, ACCOMPANIED BY WILLIAM J. HARRIS, VICE PRESIDENT OF RESEARCH AND TEST; AND A. WILLIAM JOHNSTON, VICE PRESIDENT OF OPERATIONS AND MAINTENANCE

Mr. DEMPSEY. A plus, Mr. Chairman.

I have this prepared statement that I would like be incorporated in the record.

At the outset, I think I ought to say that I have just asked one of my colleagues what the Ash Pan Act is, and having discovered what it is, I want to say that we throw the whole weight of the rail industry behind the administration's effort to get it repealed.

Mr. DEMPSEY. I will not dwell on the statistics. They are set forth in our statements and I guess all the others. They do, as the witnesses who have preceded me have indicated, show a really striking decrease in train accidents and casualties, and that is so across the board, whether you look at fatalities of employees or railroad-related fatalities or injury rates—the 31-percent decrease in 2 years in injury rates, for example. Derailments are a major cause of our difficulties over the past years. Derailments have gone down 34 percent from 1978 to 1980.

Releases of hazardous materials are way down. There were not any fatalities in connection with the transportation of hazardous materials last year.

Now what are the reasons? Well, one cannot really tell with any precision, but certainly I think very high on the list has to be placed the fact that we have had recordbreaking expenditures, capital expenditures, on track and roadbed and equipment over the last several years.

Also, we feel that there have been increased—we know that there has been increased spending on safety and training programs in the industry. There has been a step up in our railroad safety research program. We think that there has been marked increase in cooperation among the railroads and the Federal Railroad Administration and the employees, the unions, and the shippers; particularly the shippers of hazardous materials. And all of those things surely have played important contributing roles.

I would like to turn to some of the issues that we have been asked to comment on in the time that I have available to me. A couple of recommendations concerning the FRA's budget. The Federal support of the State inspection programs on the one hand and the transfer of operations of the Transportation Test Center to the private sector on the other.

I will not say very much about the Federal support for State inspection programs. We do not feel that we have much standing to comment on that except to say that whatever happens there, we think it is terribly important that those safety regulations be uniformly administered, and that the State inspectors be fully as qualified as the Federal inspectors. So as long as steps are taken to insure that those goals are accomplished, we take no position on the FRA's recommendation there.

As to the test center, back in the fall of 1981 Mr. Blanchette indicated to me that the FRA would not propose funding, Federal fund-

ing of that test center, after fiscal 1983. We explored the matter. My board has concluded that we could fit the Transportation Test Center into our research and test program. As the Federal Government withdraws from this kind of research, we realize that we have to step up our program, so we have embarked on a 5-year greatly expanded research and test program. It would cost us more, obviously, to operate that test center out there, but if we can work out satisfactory accommodations with the FRA, we would be prepared to take it over.

If, on the other hand, these negotiations do not work out and the FRA chooses some other institution to manage the test center, then we will simply have to look at that situation and determine whether it would be cost-effective for us to use it for any of our research. And I cannot tell you at this time whether it would be or not.

The effectiveness of the FRA safety program is a question that has been asked. It can be viewed obviously from several different perspectives. If we look at such things as the cooperative research that has been carried on, I think we come to a very favorable conclusion. Such projects as the track train dynamics program have been enormously effective in our judgment.

I was at a meeting recently—we are putting together another task force to deal with the transportation of hazardous materials. We think we have solved the problem of the tank car exploding, but we still have problems with respect to release of hazardous materials, and we are working on those hard, but we feel we need to get together again with the shippers on another cooperative project.

But in any case, in that meeting a president of one of the railroads commented, and he is a very, very experienced operating man, that in his judgment the track train dynamics program has played a very major role in the marked decrease in derailments that we have seen over the past several years.

I have gone into some detail with respect to these kinds of cooperative projects in my statement and I will not burden you with any of that now except to say by way of conclusion that those programs in our judgment have been very useful indeed in connection with safety.

It is more difficult to evaluate the impact of the FRA's regulatory program. Back a couple of years ago the Office of Technology Assessment published a report on this subject, and they said that as far as they could tell, the regulatory activities of the Federal Government have had no effect at all on the railroad accident rate.

We did not at that time have any evidence to dispute that finding and we do not now. One of the difficulties is that there are so many imponderables here. On the one hand, there are regulations that are obviously relevant to safety, but one cannot tell whether or not the actions that are mandated by those regulations would have been taken in any event because of the railroad's obvious interest in maintaining the safety of its operations.

That is not to suggest that the regulations should all be dispensed with. There will always be miscreants of one sort or another. But there is on the other side of it the question of regulations that are not genuinely addressed to safety or that are not necessary for safety; the kinds of expenditures that are necessary

to comply with those regulations and diversion of capital resources in a rather useless way; and the diversion of moneys that could be spent much more effectively, in terms of safety, in other endeavors. We have felt over the past years that there was a good deal that could be done along those lines.

Now fortunately, the FRA has been making great strides, we think, in modifying its regulations so as to make them genuinely relevant to safety and not to other extraneous considerations. We have had locomotive inspection standards changed, the freight car standards were revised and you have heard this morning about the proposed revisions in the power brake and track standard areas. Needless to say, we do not agree with the testimony of the National Transportation Safety Board on that matter.

And in that connection, I think the FRA deserves particular applause in the way in which it led rail management and rail labor, who after all are the two parties principally interested in rail safety, to an agreement with respect to these new proposed regulations. We would hope that those efforts would continue. We certainly are anxious on our part to see them continue.

The safety system plan that DOT submitted to Congress in December of 1981 generally seems to us to be a very useful type of approach to these problems. The establishment of priorities so that the FRA will expend its resources in the most useful way and an approach by way of cooperation rather than by way of confrontation, all of that seems to us to be major steps forward.

We have some modest questions that we would raise with some of the details of the program, but we would hope to work those matters out with FRA and the other interested parties in the course of the administration of this program.

Regarding legislation proposals, of course, we do support the change with respect to the Safety Appliance Act. What we have here is an act that has been too rigidly construed by the courts. And the result is that when you have a defective car on one line, as the courts construed the act, it cannot be interchanged at all with another carrier.

Then you frequently have an anomalous situation in which if you could only interchange that car, you could send it to a closer repair facility. Now you have to run it back to a repair facility that in many cases is farther away. And that obviously is contrary to the intention of the act to promote safety.

I think that concludes what I would like to say, Mr. Chairman.

Senator DANFORTH. Do you think that the State inspection programs are, by and large, useful or not useful?

Mr. DEMPSEY. Well, I think I would ask Mr. Johnston to comment on that. I think he is much more familiar with those programs—I know he is—than I am. As I say, in the past we have stressed the desirability of uniformity of administration and qualification of the inspectors. And I have to say that probably, you know, we feel more comfortable in those terms with Federal inspectors. But that is not to say that we oppose the State inspection program by any means.

Mr. JOHNSTON. I think, Mr. Chairman, Mr. Dempsey covered it very well. We certainly prefer the Federal inspectors over State inspectors, primarily because of the reasons outlined by Mr. Demp-

sey. No. 1, qualifications. And second, of course, and most importantly, uniformity in enforcing those regulations.

Senator DANFORTH. So if the 94 State inspectors were to disappear from the scene, you would welcome that? Or you would not lament that?

Mr. DEMPSEY. We would not lament that.

Mr. Chairman, incidentally, I have to apologize. I did not introduce my colleague. This is Mr. Johnston, who is the vice president of our operations department; and Dr. William Harris, who is the vice president of our research and test department.

Senator DANFORTH. So you think that the State inspectors muddy up the water but they do not lead to increased safety?

Mr. DEMPSEY. I just do not speak from enough personal experience to feel comfortable in answering that question. I wonder if Mr. Johnston would answer that?

Mr. JOHNSTON. Mr. Chairman, I certainly feel that would be an unfair statement. I am sure that there are some very good, if not excellent, State inspectors. But on the whole, we find in the industry out in the field that the Federal inspectors seem to be far more qualified, much more experienced, and understand the business, if you will, a great deal more than the State inspectors.

Senator DANFORTH. They do not entirely overlap in their interests; is that not correct? Or do they?

Mr. JOHNSTON. Not really. Some of the State inspectors, of course, are only qualified to inspect track or perhaps motor power and equipment. To my knowledge—I think I am safe in saying this—there are no signal inspectors in the State area. That is strictly Federal. Most of the State inspectors are track and equipment inspectors.

Senator DANFORTH. So there is or is not overlap between what they do and what Federal inspectors do?

Mr. JOHNSTON. There are at times, yes, that does happen.

Senator DANFORTH. But by and large, is it duplicative or not?

Mr. JOHNSTON. In many instances, it is, yes, sir.

Senator DANFORTH. Would you say by and large it is duplicative; occasionally it is duplicative?

Mr. JOHNSTON. That is difficult. I would have to check. But again, in many instances, it is duplicative, yes.

Senator DANFORTH. So you might have two inspectors inspecting the same track, for example?

Mr. JOHNSTON. That does happen, yes, sir.

Senator DANFORTH. Well, a lot of things happen. But is it a common occurrence? Is that the nature of the dual jurisdiction, that two agencies are doing exactly the same thing?

Mr. JOHNSTON. It does happen, yes, sir.

Senator DANFORTH. I know it happens. A lot of things happen. But I just wanted to get a feel for it. Is this a strange phenomenon, where every now and then two people are out inspecting the same track? Or is this something that is built into a dual program like this, so that you have two people doing the same thing?

Mr. JOHNSTON. I think your explanation in your latter statement, it is more or less the nature of the program.

Senator DANFORTH. You say it is the nature of it.

How about the question of human error? Should the FRA be involved in this area? Should there be some better training program or some effort by the FRA to take care of the situation?

Mr. DEMPSEY. Let me open with a comment and then turn to either of my colleagues for more detail. Human error is a major factor, there is no question about that. But I think it ought to be said that the so-called increase in human error is in large measure a function of the reduction of other causes. It is not an absolute increase.

But as equipment- and track-related accidents decrease and human error does not decrease, obviously as a percentage of the whole, it goes up. So there is some bit of an illusion, it seems to me, in terms of the remarks that have been made.

Human factor is very difficult to deal with because it embraces such a broad range of causes. And I may say that is a difficulty inherent in the whole rail safety picture. We find on our studies that if we were able to take any one of the so-called prime causes of train accidents or of injuries and wipe it all altogether, it would make only a marginal difference, a percentage point or two or three in our whole accident picture.

So that is one problem that we face. And when you say human factor, all kinds of things are embraced within that. But obviously, having said that, you are dealing with a matter that training programs are supposed to help. And that is why the industry has been very anxious in recent years to perfect its training programs.

I think it is also true that we do have more younger employees than we had before, and part of that is our problem. FRA can be helpful, certainly, in this area. It is true that they have a joint training program on the Illinois Central Gulf, as I understand it. The Illinois Central Gulf has made major strides in improving what had been a not particularly good safety record—major strides. It is about to get a special award, as a matter of fact, from the industry.

But again, you cannot say that that is because of that training program. The Illinois Central Gulf has also made enormous strides in capital expenditures.

Senator DANFORTH. Would this be a fruitful area for the FRA to explore?

Mr. DEMPSEY. Well, they are exploring it, and I think, as I say, I think they can be helpful. I would add that the railroad industry I think has to maintain primary responsibility for its own training programs. And after all, that is what the railroad industry is supposed to know something about. The FRA has been engaged in such things as examining the safety programs of railroads that have successful records to see what the ingredients of those programs are that make for that success so that they can be transferred.

And that seems to me to be something that productively can be done by an agency such as the FRA. Having said that, I would ask either of my colleagues to speak to that.

Mr. HARRIS. Mr. Chairman, in the area of training, I think it is critically important to recognize that there is a rather substantial difference in problems confronted in train operation by different railroads. A railroad operator in mountainous territory has to train

his people to deal with that problem. A railroad operating in flat territory may not take time to train its people for that issue. And the same is true in terms of the consist; that is, the trains themselves, the length of the train, the nature of the commodities, the nature of the distribution of weights and commodities in the train.

And accordingly, it is easy to contemplate a single national training program. But examined in detail, it does not parse. It simply does not serve the needs of the industry.

Therefore, I think the approach that FRA is taking toward cooperation and examining how training can be best carried out to serve the varied and complicated needs of training in the industry is a far better one than any action that would presume that FRA could suddenly take over this area.

Senator DANFORTH. You do not want a uniform system of training necessarily, but you would welcome the FRA's interest, participation, exploring what works and what does not work, that kind of thing?

Mr. HARRIS. I think there is no problem with that at all. It is entirely consistent with the legislative authority.

Senator DANFORTH. Do you not think that ready use of fines as a deterrent to rulebreaking is a necessary part of any agency's efforts to assure safety?

Mr. DEMPSEY. Surely. I think that if you have a law, you have to have a penalty for breaking the law. And it is unfortunate that that is the case, but it is.

But on the other hand, the kind of mindless imposition of fines that I am frank to say we saw coming from the FRA in past years seems to us not to be useful at all, but the discriminating approach that the FRA is now undertaking seems to us to be the way that a court would approach the problem; the way that anyone with reason would deal with these matters.

What was said by Mr. Blanchette about what happens when you just have this kind of senseless imposition of fines is exactly our experience. And I want to point out that on one railroad that is exactly what the FRA did. It went after that railroad and after it and after it and after it, and nothing happened except good will was endangered and things were said on both sides that probably should not have been said.

In the last year, since the FRA has undertaken this new program, the record of that railroad has gone way up in terms of its safety compliance. It seems to me that is the way to approach it.

Senator DANFORTH. Gentlemen, thank you very much.

Mr. DEMPSEY. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads welcomes the opportunity to comment here today on the reauthorization of appropriations to carry out the purpose of the Federal Railroads Safety Act.

My name is William H. Dempsey and I am President and Chief Executive Officer of the AAR. Appearing here with me today are William J. Harris, Vice President of Research and Test and A. William Johnston, Vice President of Operations and Maintenance.

The railroads which are members of the Association employ 94 percent of the workers, produce 97 percent of the freight revenue and operate 95 percent of the rail haul trackage in the United States.

Since we all share a common goal—making the railroad working place a safer environment—I think that the Committee should be made aware of the dramatic improvement in rail safety as reflected in both casualty and train accident statistics over the last several years. Between 1978 and 1980 the number of fatalities, injuries per million man hours worked and train accidents per gross ton miles declined dramatically.

Total railroad related fatalities decreased 14 percent from 1978 to 1980.

Railroad employee fatalities decreased from 122 in 1978 to 97 in 1980; a reduction of 20 percent.

The injury rate also dropped dramatically. From 1978 to 1980 there was a 31 percent decrease in the reported injury rate.

Reportable train accidents decreased 28 percent from 1978 to 1980.

The track-caused mainline derailment rate decreased 34 percent from 1978 to 1980.

FRA preliminary accident data for 1981 indicate that the trend is still continuing downward.

Railroad employee fatalities in 1981 were down to 66; a reduction of 31 percent from the 1980 figure.

Reported injuries to rail employees in 1981 were 15 percent lower than 1980.

Railroads have always been the safest mode of surface transportation for the carriage of hazardous materials and there has been a significant decrease in hazardous materials incidents.

Releases in hazardous materials in derailments decreased 47.8 percent from 1978 to 1980.

According to FRA preliminary 1981 data total hazardous materials released dropped 35 percent from 1980 to 1981.

There were no fatalities resulting from rail transportation of hazardous materials in 1981.

Improvements in rail safety have not happened by chance. They stem from increased spending by individual railroads on safety and training programs for employees, a step-up in railroad safety research programs, increased cooperation between railroads, shippers, rail unions and the federal government and the extraordinary effort of the industry in recent years to increase maintenance programs and modernization projects. In each of the last two years capital expenditures for plant alone have exceeded $1 billion.

The recent tragic accident in New York in which 9 persons were killed when a vehicle reportedly by-passed other vehicles stopped at a protected crossing, and drove around the crossing gate and into the path of a train exemplifies an area of concern which has no simple solution. While there has been a substantial improvement in grade crossing safety, it is still the largest single cause of rail-related fatalities. It overshadows all other causes by a considerable margin.

Fortunately there has been a dramatic improvement in this area also. According to FRA's preliminary data, public grade crossing fatalities involving motor vehicles for 1981 were down to 623.[1] This is the lowest number of fatalities recorded since records were first kept in 1920! Over the 10 year period from 1971 through 1981 there was a 50.8 percent reduction in public grade crossing accident fatalities involving motor vehicles. This reduction was achieved despite an increase in exposure of approximately 25 percent.

The remarkable improvement has been largely the result of the accomplishments made under the national grade crossing improvement program funded under Section 203 of the 1973 Highway Act. The railroads strongly support and have taken an active role in this program. The industry has fostered over 115 meetings between state, local and federal highway officials in order to expedite and implement this program.

The national highway rail/grade crossing safety improvement program has been proclaimed by many to be the most effective highway safety improvement program on record.

A significant number of crossing deaths occur as a rule of error on the part of the automobile driver. It is difficult to understand why a driver would drive around cars stopped at a crossing and around the crossing gate in a race with a train when the odds are so heavily against him. It is even more astounding that in many instances

[1] From 1978 to 1980 there was a 23.7-percent decline in public grade crossing accident fatalities involving motor vehicles as deaths decreased from 929 to 708.

that motorists drive past flashing lights and around gates into the middle of a moving train.

Another cause of grade crossing accidents is the lack of care that grows out of familiarity. A great number of grade crossing accidents involve motorists or trespassers who are familiar with the crossing and simply don't pay attention on that one occasion when it was needed most.

The public program conducted through "Operation Lifesaver" is supplementary to and compounds the benefits of the federally sponsored rail-highway grade crossing improvement program. Funded largely by the railroads, this program takes advantage of one of the most effective tools available for reducing accidents—public education. Administered nationally by the National Safety Council and staffed by a full time coordinator, this program is now active in 30 states.

I have attached to my statement an Appendix which contains a complete breakdown of rail safety statistics for recent years and accompanying analysis.

The Committee has requested that we address recent FRA recommendations concerning its budget. These recommendations deal with the Federal support for state inspection programs and the transfer of operations of the Transportation Test Center to the private sector.

TRANSPORTATION TEST CENTER

The TTC was established in 1969 by the FRA to test high speed ground transportation systems for passengers. As the FRA began to give more attention to research on freight systems, the emphasis at TTC changed and joint AAR-FRA programs were carried out on a variety of tank car safety, dynamic, and component performance problems.

AAR supported a small staff at TTC for 6 years to provide technical assistance in the conduct of these jointly funded FRA and railroad industry programs. In the fall of 1981, the FRA administrator made it known that FRA would not fund the TTC after September 30, 1982. In discussions with AAR, FRA indicated that AAR might be a suitable candidate to manage TTC. FRA indicated that while it would provide no general funding to support TTC, it did not intend to contract to have appropriate railroad safety projects performed at TTC.

The AAR staff and many technical officers and railroads concluded that the TTC might make a continuing contribution to railroad safety and efficiency. Thus, the AAR Board authorized the Research and Test Department to develop a five-year research plan and to define the role that TTC could play in that plan.

In late March the AAR Board authorized the AAR to negotiate with FRA for the transfer of management responsibility for TTC to the AAR, provided that certain conditions such as funding are met, as part of its expanded research program. These negotiations are in progress.

The AAR believes that the TTC can be effectively managed by the private sector to support government and industry requirements.

If the AAR assumes responsibility for the TTC, it would expect to solicit additional testing and research projects from industry and government so as to expand the program at the TTC and spread the relatively high overhead costs that come about because of the isolation of the center. It is also the intent of AAR to work closely with local, state, and regional authorities and universities so as to make the TTC as useful as possible.

If these negotiations are not carried out to a satisfactory conclusion, and FRA chooses another institution to manage TTC, AAR will have to then determine whether suitable arrangements could be made to meet AAR testing requirements for its projects scheduled for TTC at cost effective rates. If not, the member railroads of AAR have indicated their willingness to provide suitable testing sites for the same purposes.

FEDERAL FUNDING OF STATE PARTICIPATION PROGRAMS

The railroads' primary concern with respect to the State inspection programs is that the Federal safety standards and regulations be administered in a uniform manner by trained and capable people. The railroads have stressed the importance of having highly qualified State inspectors. At a minimum the State inspectors should be fully competent to measure conditions and practices observed on the railroads against applicable Federal requirements and should be capable of understanding the safety consequences of conditions and practices observed. In our view this requires that the State inspectors meet at least the same standards in terms of field experience as is demanded of Federal inspectors.

If any reduction or cessation support for the State programs occurs, it is essential that the required qualifications for the State inspector not be relaxed.

Even though Federal funding is discontinued, the existing regulations governing State participation should remain in place. This is essential to achieve uniformity in the administration of the safety regulations.

FRA'S SAFETY PROGRAM

The Committee has asked the witnesses to comment on the effectiveness of the FRA's safety program. The question of whether the FRA's safety program has been effective in bringing about a safer railroad industry can, or course, be viewed from several different perspectives. Certainly the joint research projects in which the FRA has participated have contributed a great deal to the capability of the railroad industry to improve safety.

For example, among the most important programs in the field of safety is Track-Train Dynamics. This program began in 1972 and is supported by the FRA, individual railroads, the railroad supply industry, the Transportation Development Agency of Canada and the Association of American Railroads. Through this program, there have been developed a set of guidelines for train handling that describe to a locomotive engineer the optimum manner of maintaining his train in a stable, dynamic condition over a wide variety of terrain, climatic, and consist conditions. These guidelines have been widely distributed throughout the railroad industry and constitute a new basis for revision of individual railroads' train handling guidelines. They have been very extensively adopted and utilized and have eliminated a large number of heretofore unexplained derailments.

In the Track-Train Dynamics program a large number of dynamic, analytical models have been developed. These models have established the dynamic response of cars and equipment. They have been used to assess probable behavior of new equipment. They have been used to analyze derailments and have taken out of contention some views as to what might have caused the derailment. They have been used to determine train handling practices and to refine them. They have been used to establish guidelines for train maintenance by making possible studies in ranges where operations are not feasible because of potential risk of accident. In short, these analytical models have had wide application and continue to be important in defining the basis for improved practices within the industry. This program has provided the FRA and the railroad industry with deep insight into opportunities for improvement and has provided specific means of translating those findings into action.

The operation of the Facility for Accelerated Service Testing operated at the Transportation Test Center in Pueblo, Colorado, has also contributed knowledge which can be used to enhance railroad safety. The operation of a a closed loop exposes the track structure and the equipment to an operating environment between five and ten times the intensity level of conventional railroad operations. By having a single consist operate over the track, variables can be isolated and comparative studies made between the equipment or track components with much more precision than is possible in revenue service with a variety of trains and cars that must be moved over the system. Deficienicies in some equipment have shown up before that equipment was introduced in service. Opportunities for choosing advanced technology have emerged and are being adopted by many railroads in their procurement decisions.

In addition the FRA has participated in other cooperative programs on track and equipment which have the potential of contributing to significant improvements in safety.

With respect to the contribution FRA has made through its regulatory, inspection and enforcement programs, it is difficult to measure the contribution to safety with any precision. Certainly there are instances in which the FRA has detected deficiencies and has worked with individual railroads to avoid unsafe conditions. In this respect the monitoring function of the FRA inspectors makes a positive contribution to safety. On the other hand, however, we are aware of no accurate correlation between FRA's inspection and enforcement activities and improved safety performance. The perception of the effectiveness of the FRA's inspection and enforcement programs is influenced by several factors. For example, it is the view of the railroads that expenditures for capital improvements and maintenance have been made on the basis of sound economic considerations which bring the plant up to a standard far exceeding safety requirements. These investments are made without regard to specific standards set forth in the federal regulations because there is a wide

margin between the end product of such expenditures and the specific safety standards.

Furthermore, there is strong reason to believe that because many of the past regulations required the commitment of funds to fulfill needlesly onerous requirements, critically needed funds were unavailable for improvements or maintenance that would have had a more positive impact on safety. Fortunately the FRA has taken positive steps to amend the regulations to eliminate some of the more onerous and demonstrably uproductive requirements from the regulations. For example, the locomotive inspection standards and the freight car standards were substantially revised. Those revisions had no adverse safety consequences and they relieved the railroads of significnt economic burdens.

Similarly, the FRA is currently considering amendments to the track standards and the regulations applicable to power brakes. It is anticipated that these amendments, if adopted, will produce significant opportunities for the reallocation of available resources to projects which will contribute more to safety both in the short and long term.

In 1978 the Office of Technology Assessment of the Congress of the United States published a report entitled "An Evaluation of Railroad Safety" in which it concluded that the regulatory activities of the federal government have had no apparent effect on the railroad accident rate. At that time the railroads had no evidence to dispute that finding. Today it is still unclear what the precise impact has been. It is far too easy to reach a conclusion one way or the other absent any analysis of the facts. However, if one examines the causes for railroad employee injury over the period 1975–1980, for example, it becomes doubtful that any regulatory regime would have an influence on reducing the majority of rail employee injuries. Over the period 1975–1980 five causes of employee injuries represented 58.7 percent of the injuries. These causes were (1) stumbling, slipping and falling (26 percent), (2) use of tools (10 percent), (3) causes not otherwise listed (8.5 percent), (4) handling material (8.5 percent) and (5) striking or being struck by equipment or material (5.7 percent). The other 41 percent of the injuires are spread over 17 different causes. There are no existing regulations applicable to these causes of employee injuries and it would be impossible to devise new regulations which would address the vast majority of the employee injuries.

LABOR MANAGEMENT COOPERATION

The Federal Railroad Administration is to be commended for encouraging labor/management cooperation in the area of improving federal safety standards. The FRA was responsible for bringing labor and management together to examine the track standards and the power brake regulations. These two groups, representing those with the greatest stake in rail safety, recommended specific amendments and the FRA responded by publishing proposed amendments to those regulations. The representatives of the railroads through the Association of Amercian Railroads and the various railroad labor unions through the Railway Labor Executives Association used the opportunity afforded by FRA to identify many existing rules which should be changed to comport more closely with the basic objective of improving the regulatory safety program.

The track standards were originally developed in 1971 in an attempt to establish a minimum standard of safety for railroad track used in common carrier service in the United States. The problem with those standards in certain areas is that the drafters of the original regulations were unable to reduce the vast knowledge concerning the maintenance of safe track to a relatively simple codification. The ultimate objective of course is to obtain performance standards under which the condition of the track can be measured in terms of its ability to perfom in a safe manner. The proposed amendments do not achieve that objective in full but at least they are a step in the right direction.

The history of the power brake regulations goes back into the early part of the twentieth century. Until 1958 the power brake rules were adopted and published by the Association of American Railroads. By an act of Congress in 1958 the Interstate Commerce Commission, which then had jurisdiction over railroad safety laws and regulations was required to adopt the AAR rules as federal regulations. Only one modest change has been made in those regulations since 1958. Yet, railroad brakes and related equipment have changed considerably. Many technological changes have substantially improved train braking characteristics and have effectively eliminated the necessity for so frequent inspections. We believe that the proposed changes are modest changes in view of the reliability and durability of the train braking system currently in use in the railroad industry. Thus, with respect to cer-

tain proposed inspection intervals, the FRA has announced that it will review the situation two years hence and determine whether those inspection intervals may be further extended.

We hope that this recent experience in successful labor/management cooperation will be repeated in the future.

DOT'S SYSTEMS SAFETY PLAN

In December of 1981 the Department of Transportation submitted a report to Congress which described goals for improved railroad safety and the approach the FRA has adopted to meet those goals. The report reflects the belief of the FRA that safety is best enhanced when government and industry resources are combined in a cooperative rather than an adversary spirit. We agree.

We think that the adoption of the systems approach to rail safety has permitted the FRA to enunciate its specific objectives and will permit it to achieve those goals in a more organized fashion. The systems approach as outlined concentrates on those areas that the FRA sees as providing its greatest opportunity for aiding in the improvement in rail safety. The FRA inspectors will have defined guidelines for inspections and the number and type of inspections to be made in each discipline will be designated for each of the regional offices. This will eliminate duplications and concentrate inspections where needed. FRA will also develop in cooperation with management and labor training courses to promote understanding of rules and regulations. The railroads are convinced that reliance on this cooperative approach will do much more to achieve the objectives than resorting to the use of fines as the major technique for avoiding unsafe conditions.

There are several specific comments that we have with respect to the report. First in addressing employee safety the Department of Transportation assumes that, "By concentrating on a goal of reducing the rate of employee fatalities, the number of severe or disabling injuries of railroad employees will be reduced." From review of employee casualties over the period 1975–1980 it would appear that employee safety cannot be addressed by only looking at the causes of employee fatalities. The causes of injuries and fatalities, are different. Twenty-seven percent of employee fatalities were the result of grade crossing accidents, derailments or collisions. Yet only 2.3 percent of employee injuries involving lost work days were the result of such accidents. Table number 4 in the Appendix to my statement shows the percent distribution for employee fatalities and injuries involving lost work days. Becuase of the difference in causes, achieving the goal of reducing the rate of employee fatalities will not significantly impact the number of severe and disabling injuries.

The question of how to address the task of resolving safety is extremely complex because of the lack of significance of any individual problem. The analysis of information about safety reveals that there are no problems of such a character that their solution will make a revolutionary change in railroad safety. The AAR completed an analysis of employee casualties by job classification, nature of injury, and what the employee was doing when the injury was sustained. The purpose was to assist in the development of safety program priorities based on accident frequency and severity. This analysis revealed that the complete elimination of any one of the highest ranked safety problems, measured in terms of number of injuries or number of lost work days, would improve overall safety by only a few percentage points.

This scattered distribution of causes and the effect it has on the ability to focus on the appropriate remedies is quite evident in the area of "human factors" which the FRA report addressed under the subject of training. First of all it should be noted that while the percentage of human factors caused accidents has increased from 1976 to 1981, the absolute number of those accidents has declined significantly in the last two years. The report notes that in 1980, 45 percent of the fatalities were caused by human factors. In 1980 there were only 13 fatalities caused by human factors and in 1981 that number dropped to seven. In 1981 the cause responsible for the most number of deaths was "Miscellaneous human factors" and that was only four. Two deaths were attributed to "Other rules and instructions" and one was attributed to "Flagging, fixed, hand and radio signals". That distribution of causes under the general heading of "Human Factors" is not very helpful if the training effort is to focus on eliminating fatalities.

As the FRA indicates, the railroads are primarily responsible for employee training and the railroads are committed to their continuing and improved training programs. The railroad training programs utilize many techniques. Some jobs are best suited for centralized training, yet because of the large territory the training sessions are conducted at locations across the property. The railroads utilize classrooms, suppliers' schools, private technical schools, correspondence courses, on the

job training and apprenticeship programs. Furthermore the training process is a continuing part of railroad employment. There is a day to day involvement by supervisors in operations and in on-the-job checks on safety practices. Safety meetings and rules classes are a condition of employment.

We encourage the continued efforts of the FRA in the development of a program of courses covering all rail safety regulations. Railroads are aware of the importance of effective training and welcome FRA's assistance and cooperation in the area of training.

The FRA goal to reduce hazardous materials releases by 50 percent over the next five years is reasonable and, with the efforts of all concerned, attainable. The possibility of catastrophic accidents has been significantly reduced by the modification of the DOT specification 112 and 114 tank cars. The shelf couplers, head shields and thermal insulation developed by a joint railroad/supplier tank car research project in which FRA participated to some extent and required by Federal regulations have provided for modification to the tank car fleet that will eliminate violent ruptures of tank cars carrying hazardous materials. The catastrophies which attracted national attention several years ago are not expected to recur. Now tank cars of other specifications carrying hazardous materials are being retrofitted with shelf couplers and head shields to reduce the incidence of product loss in accidents.

In addition, the railroad industry has imposed requirements which govern the specification for bottom outlet valves to minimize the extent of product loss in a derailment. The specifications are based on the relative safety and environmental hazard characteristics of products carried. These requirements should further reduce the number of releases of hazardous materials and enviromentally hazardous products.

One problem which has not been addressed in the tank car retrofit programs is the high incidence of hazardous materials releases in non-accident situations. These are the releases that occur as a result of loose or improperly secured valves and fittings. The AAR's Bureau of Explosives has been inspecting shipping facilities and instructing loading rack employees in the proper methods of pre-trip car preparation. Many shippers, after working with the Bureau of Explosives, have developed check lists to help ensure that cars are not tendered for transportation until they are known to be in good condition. Where proper pre-trip procedures are in place, Bureau records show that reduction in non-accident releases of up to 80 percent are possible, but much work remains to be done.

An extension of an earlier cooperative effort between shippers, railroads and tank car builders is being organized to launch a full scale attack of these tank car releases. It will focus on the non-accident related releases caused by (1) the failure of shippers to properly secure tank car fittings, and (2) those instances of rough handling by railroads that may lead to such defects as rupture disc failures. In the area of accident-caused releases, the program will focus on expanding the proved worth of the pressure car retrofit program and the recent improvement in bottom discontinuity protection.

PROPOSED LEGISLATION

Section 13 of the Safety Appliance Acts (45 U.S.C. § 13) was enacted in 1910 to relax the rigidity of the rule that any movement of a car having defective safety appliances subjected the carrier to a stautory penalty. Section 13 permits a carrier to move a defective car from the point of discovery of the defect to the nearest available repair facility where the car can be repaired without incurring the penalty. However this provision has been narrowly construed in a manner which does nothing to enhance safety. The courts have interpreted this rule as limiting the acceptable movement of defective cars only over the lines of the railroad on which the defect occurred. Thus, if a car is first identified as having a safety appliance defect at an interchange point it can only be moved over the lines of the delivering carrier. The receiving carrier would be subjected to the penalty ranging from $250 to $2,500 if the car were moved over its lines. Far too frequently this brings about the anomalous situation in which the receiving carrier has a repair facility closer to the interchange point than does the delivering carrier. Yet under this rule the car must be moved over the longer distance to the repair facility on the delivering carrier's line.

The amendment to Section 13 as proposed by the FRA would permit the car to be moved to a repair facility on the lines of the receiving carrier without being subjected to the statutory penalty. Importantly, the determination as to whether the car is to be moved beyond the interchange point to the repair facility on the receiving carrier's line is left to the discretion of the receiving carrier. The AAR fully supports the amendment to Section 13 of the Safety Appliance Acts as proposed by the FRA.

The AAR supports the proposed repeal of the Ashpan Act (45 U.S.C. §§ 17–21). This law born of the preceived needs of a bygone era has been rendered meaningless by changing technology.

APPENDIX.—ANALYSIS OF SAFETY DATA

All railroads are required to report certain classes of accidents and employees casualties to the Federal Railroad Administration. The Research and Test Department of the AAR maintains continuing surveillance of these data and conducts analyses to identify and rank the causes of accidents, injuries, and fatalities.

The FRA categorizes accidents into four groups for reporting purposes: train incidents, train accidents, non-train incidents, and grade crossing accidents. Train incidents refer to occurrences in which there was relatively little financial loss but which resulted in death or injury. Non-train incidents are injuries or deaths not involving the movement of trains. An accident is classified a train accident if it involves at least $3,700 damage to railroad property whether or not it involved any casualties. In January 1975, the FRA reporting requirements for both train accidents and incidents were significantly changed, so most of the earlier data are not comparable with post-1974 data.

While train accidents have resulted in substantial damage to track and equipment, these accidents were responsible for only a small portion of railroad injuries and fatalities. Figure 1 shows the percentage of fatalities and injuries by type of accident for 1975–1980. Grade crossing accidents accounted for the largest percentage of railroad-related fatalities, 62 percent. Train incidents and nontrain incidents accounted for 35.6 percent of all railroad fatalities, most of which involved trespassers. Only 2.5 percent of reported fatalities were related to train accidents, and only 1.6 percent of reported injuries occurred as a result of a train accident.

There has been a sharp downward trend in fatalities over the last fifteen years as shown in Table 1. From 1966 through 1980, there has been a decrease of over 1,200 fatalities per year. Preliminary data for 1981 show the number of fatalities to be an all-time low.

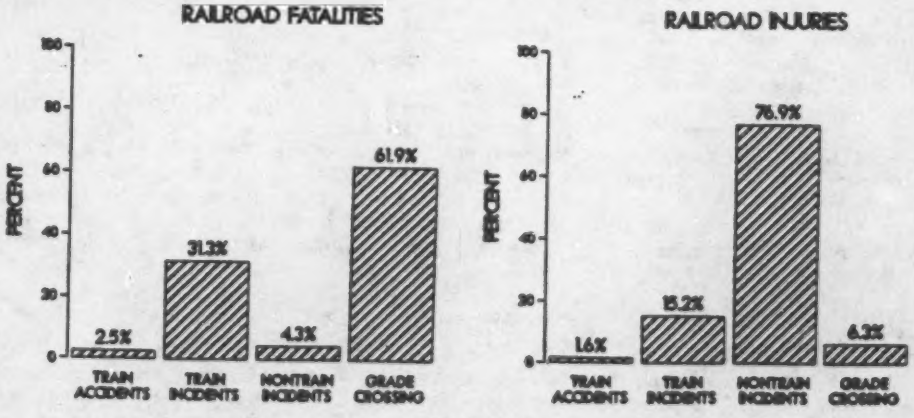


Figure 1

TABLE 1.—RAILROAD ACCIDENT FATALITIES: 1966–80

	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Passengers	23	12	11	6	8	16	47	6	7	8	5	4	13	6	4
Employees	159	166	146	178	155	118	127	158	140	110	100	114	122	101	97
Trespassers	678	646	628	627	593	551	537	578	565	524	458	458	492	516	566
Others [1]	1,824	1,659	1,574	1,488	1,469	1,325	1,234	1,174	1,196	918	1,121	954	1,019	806	750
Highway grade crossings [2]	1,780	1,632	1,546	1,490	1,440	1,356	1,260	1,185	1,220	978	1,099	941	1,002	883	833
Total	2,684	2,483	2,359	2,299	2,225	2,010	1,945	1,916	1,908	1,560	1,684	1,530	1,646	1,429	1,417

[1] The preponderance of these fatalities occurred in highway grade crossing accidents.
[2] Fatalities distributed in four previous categories and not duplicated in the total.

Sources: Fatality and injury statistics for years 1966 through 1980 from FRA Accident/Incident Bulletin.

Figure 2 presents the 1975–1980 trends in train accidents at various damage thresholds. The FRA reporting threshold was adjusted bi-annually to remove the effects of inflation. In 1975 and 1976, the threshold was $1,750; in 1977 and 1978, it was $2,300; in 1979 and 1980, it was $2,900. In 1981, it was increased to $3,700. The "adjusted" trend line shown in Figure 2 is for yearly adjustments. As can be seen in Figure 2, the number of train accidents at all thresholds has declined since 1978. Between 1978 and 1980, the reported number of train accidents decreased 25 percent. The number of accidents at thresholds of $10,000, $25,000, and $100,000 decreased 25, 29, and 33 percent respectively. Preliminary 1981 data show the downward trend in train accidents is continuing.

These curves also point out that over 50 percent of reported accidents have damages below $10,000; and major accidents, those in which damage to track and equipment was greater than $100,000, accounted for only 7 percent of train accidents over the last six years.

When the accident trend is normalized by gross ton miles, to account for changes in the level of traffic, the 1978–1980 decrease is 27 percent. The 1978–1980 decrease in accident rates was more dramatic at higher thresholds. At a $100,000 threshold, accidents per gross ton mile decreased 34 percent.

As shown in Figure 3, the primary types of reported train accidents were mainline and yard derailments which accounted for 73 percent of train accidents and over 80 percent of damages.

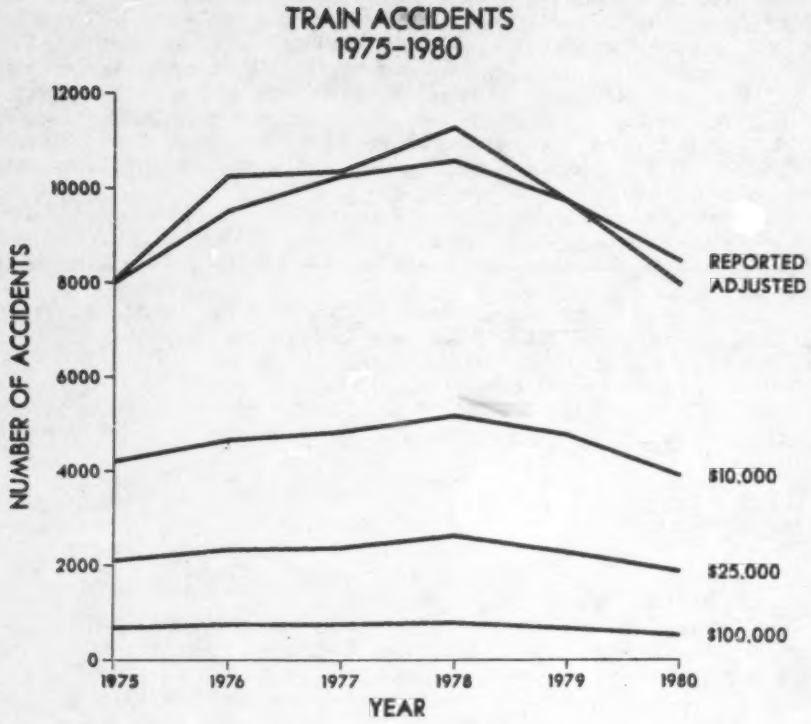


Figure 2

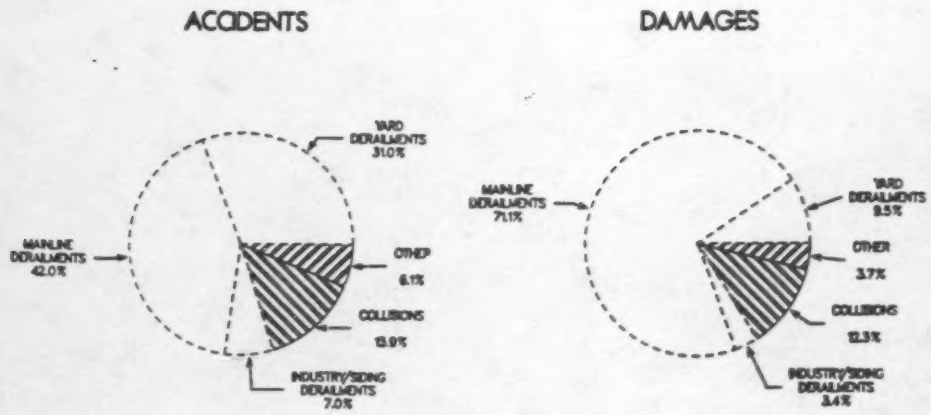
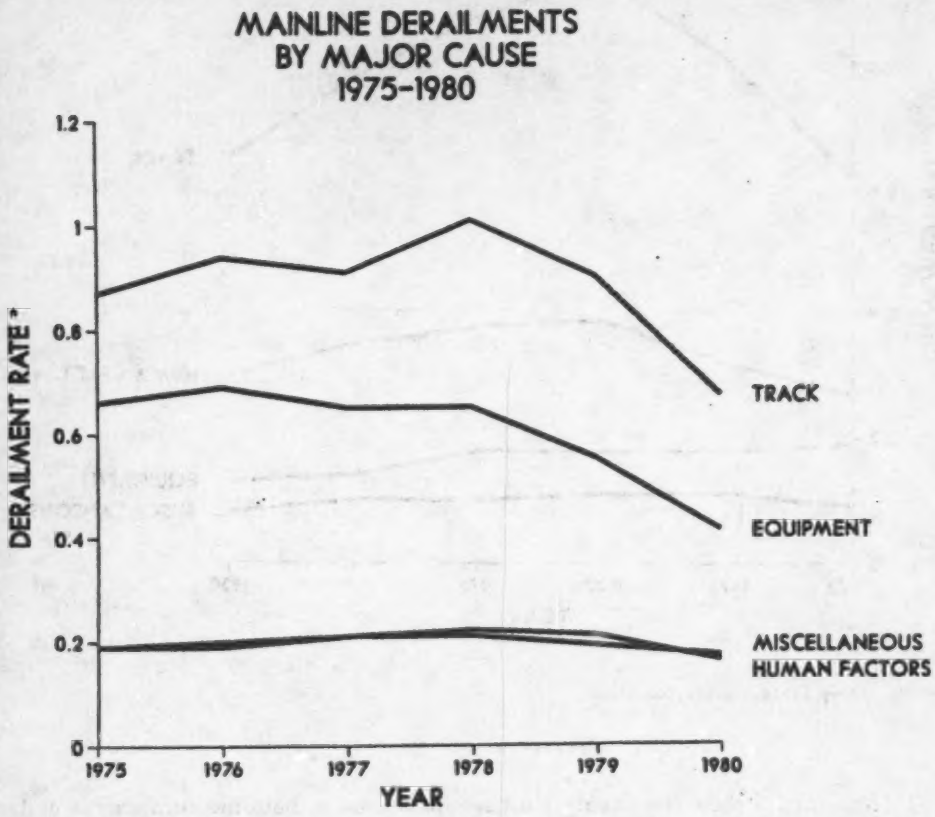


Figure 3

Figure 4 shows mainline derailments by major cause category, normalized by gross ton miles. The trend in the equipment-caused derailment rate decreased 38 percent over the six year period 1975–1980. The track-caused mainline derailment rate increased 17 percent between 1975 and 1978 but then decreased 34 percent from 1978 to 1980. The derailment rates for each cause were lower in 1980 than in 1975.

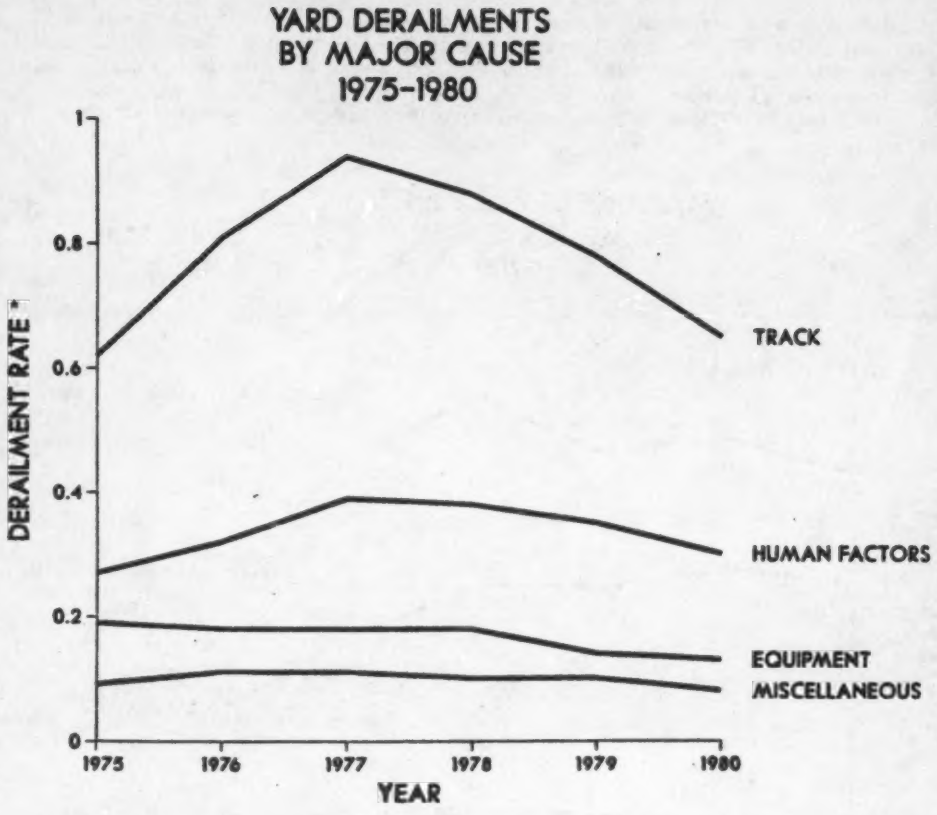


*Per billion gross ton miles

Figure 4

Figure 5 shows yard derailments by major cause category, normalized by gross ton miles. The track-caused yard derailment rate decreased 31 percent between 1977 and 1980. The yard derailment rate for human factors causes decreased 23 percent between 1977 and 1980, and the equipment caused yard derailment rate declined 28 percent. Miscellaneous caused yard derailments did not show much variation.

Each of the major causes—Track, Equipment, Human Factors, and Miscellaneous—represents many specific causes, about 200 in all. An index was used to identify the most severe causes of mainline derailments and yard derailments. The index is the product of multiplying the frequency or number of accidents within a cause code by the median dollar damage associated with that particular cause code. The median damage was selected rather than the average damage because of the influence one or two high cost accidents can have on the average.



*Per billion gross ton miles

Figure 5

Tables 2 and 3 show the twenty most severe causes of mainline derailments and yard derailments. These two tables point out the diversity of causes associated with train accidents: specifically, mainline and yard derailments.

TABLE 2.—MAINLINE DERAILMENTS FREQUENCY—SEVERITY RANKINGS, 1975–80

Causes—description	FRA cause codes	Derailments[1]		Total damage[1]		Median damage	Frequency—severity index
		Number	Percent	Amount	Percent		
Cross level irregular at joints	119	334	8.8	$12,559,518	5.4	$17,763	5,930
Other miscellaneous causes	799	130	3.4	14,086,447	5.9	31,890	4,146
Buffing or slack action excessive	570	174	4.6	9,349,471	3.9	20,494	3,569
Journal (plain) failure overheated	451	162	4.3	11,296,705	4.7	21,513	3,478
Track alignment irregular—buckled	115	97	2.6	8,706,450	3.6	34,886	3,401
Transverse/compound fissure	141	74	2.0	6,932,009	2.9	37,403	2,768
Cross level irregular not at joints	120	163	4.3	6,825,435	2.9	16,603	2,706
Interaction lateral/vertical forces	713	87	2.3	5,409,455	2.3	23,000	1,990
Side bearing clearance improper	440	121	3.2	4,435,733	1.9	15,500	1,873
Broken rail	131	87	2.3	6,207,549	2.6	21,446	1,862
Wide gage (defective/missing crossties)	110	193	5.1	5,690,785	2.4	9,541	1,840
Vertical split head	142	74	2.0	4,129,764	1.7	22,211	1,647
Joint bar broken—noninsulated	147	44	1.2	4,468,576	1.9	34,326	1,510

TABLE 2.—MAINLINE DERAILMENTS FREQUENCY—SEVERITY RANKINGS, 1975–80—Continued

Causes—description	FRA cause codes	Derailments[1]		Total damage[1]		Median damage	Frequency—severity index
		Number	Percent	Amount	Percent		
Other rail and joint defects	149	51	1.4	4,722,062	2.0	27,720	1,428
Track alignment irregular	114	68	1.8	3,414,054	1.4	19,110	1,306
Journal (roller) failure overhead	452	58	1.5	4,230,930	1.8	21,151	1,234
Head/web separation outside joints	136	46	1.2	4,455,988	1.9	26,112	1,205
Bolt hole crack or break	130	40	1.1	3,678,652	1.5	28,859	1,169
Broken rim	461	39	1.0	3,735,969	1.6	28,439	1,123
Excessive speed outside yard limits	555	33	0.9	5,489,162	2.3	33,829	1,105

[1] 1975–80 average.

TABLE 3.—YARD DERAILMENTS, FREQUENCY—SEVERITY RANKINGS, 1975–80

Causes—Description	FRA cause codes	Derailments[1]		Total damage[1]		Median damage	Frequency, severity index (thousands)
		Number	Percent	Amount	Percent		
Wide gage (defective/missing crossties)	110	316	11.3	$2,940,133	9.1	$6,145	1,941
Switch point worn or broken	165	252	9.0	2,610,879	8.1	6,714	1,693
Buffing or slack action excessive	570	128	4.6	1,766,561	5.5	7,892	1,010
Cross level or irregular	119	90	3.2	1,132,559	3.5	7,994	717
Worn flange or tread	464–465	93	3.3	1,058,940	3.3	6,943	649
Broken rail	131	95	3.4	951,607	3.0	6,707	638
Switch improperly lined, latched, locked	561–562	103	3.7	1,055,751	3.3	6,183	637
Switch damaged or out of adjustment	161	93	3.3	920,945	2.9	6,663	622
Transverse/compound fissure	141	55	2.0	705,539	2.2	8,389	459
Lateral drawbar force excessive	572	59	2.1	813,335	2.5	7,450	436
Passed couplers	574	77	2.8	565,243	1.8	5,455	423
Switch previously run through	563	67	2.4	673,356	2.1	5,891	397
Other miscellaneous causes	799	51	1.8	899,554	2.8	7,388	373
Vertical split head	142	51	1.8	545,135	1.7	7,280	372
Failure to secure cars or engine	502–505	38	1.4	580,633	1.8	8,771	336
Cross level irregular not at joints	120	39	1.4	606,020	1.9	8,615	332
Truck stiff	445	25	0.9	341,714	1.1	8,835	331
Head/web separation outside of joints	136	47	1.7	559,885	1.7	6,932	328
Wide gage (defective/missing fasteners)	111	47	1.7	503,265	1.6	6,877	321
Roadbed Settled or Soft	101	38	1.4	423,973	1.3	7,522	285

[1] 1975–1980 average.

Employee casualties

From 1975 through 1980, an average of almost 68,000 casualties were reported. Almost 90 percent of these casualties involved on-duty railroad employees. The AAR has completed an analysis of these data. Some of the more significant findings are discussed below.

As shown in Figure 6, there are over 60,000 employee casualties reported annually. Of these, 109 or 0.2 percent are fatalities. Interestingly, many (50 percent) of the reported injuries do not involve lost work days (Figure 7). Over 40 percent of all injuries which result in lost work days are sprains and strains. The majority of these involve the torso, leg, or foot.

The majority of the lost-time injuries are not associated with train accidents as shown in Figure 8. Therefore, research on employee safety must consider factors other than the causes of train accidents if they are to have a significant impact on employee injuries. Table 4, which compares the significant causes of employee fatalities and lost-time injuries, also illustrates this point. Note that the first two causes listed, which account for over 50 percent of fatalities, account for only 8 percent of lost-time injuries.

Stumbled, slipped, tripped or fell is the most critical cause of lost-time injuries. This is followed by use of tools, handling material, striking or struck by equipment

structures or material, getting on and off equipment, coupling or uncoupling, handling ties, operating switches, struck by flying or falling objects, operating hand brakes, slack action, and motor vehicle accidents. Table 4 shows the percentage of lost-time injuries for each of these cause categories. Note that the top four cause categories accounted for 50 percent of all injuries. They also accounted for 50 percent of all lost work days.

Figure 9 shows the injury rate trends for the four most critical cause categories. The category, stumbled, slipped, tripped or fell, had a 65 percent increase in the number of injuries per million man-hours from 1975 to 1979. However, the injury rate for this cause category has decreased dramatically in 1980.

Figure 10 presents a summary of the percentage of injuries associated with each of the occurrence codes which make up the cause categories. Some of the findings from this figure are listed below.

Foreign objects or irregular surfaces were the most significant cause of stumbling and falling injuries.

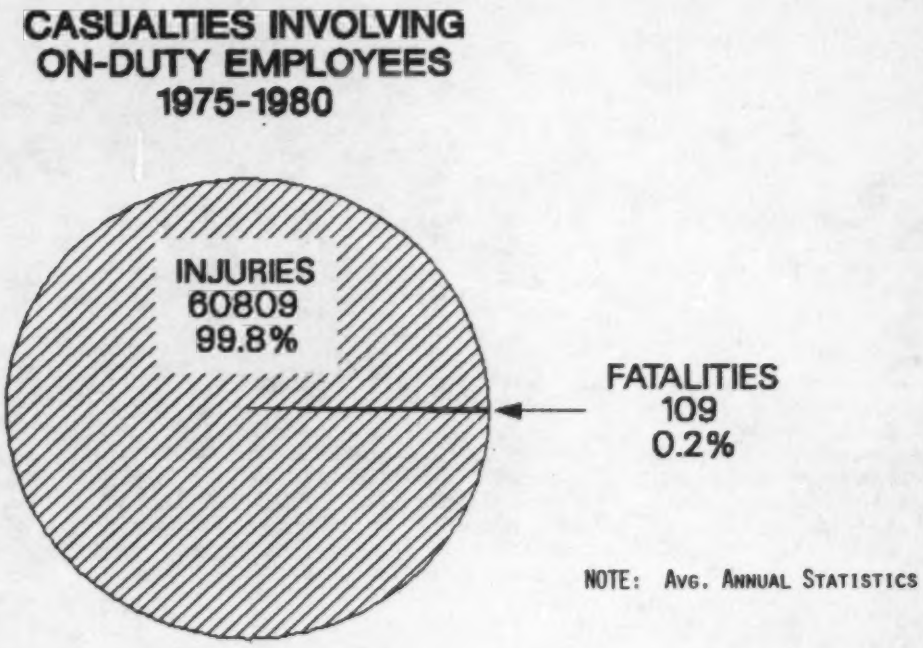


FIGURE 6

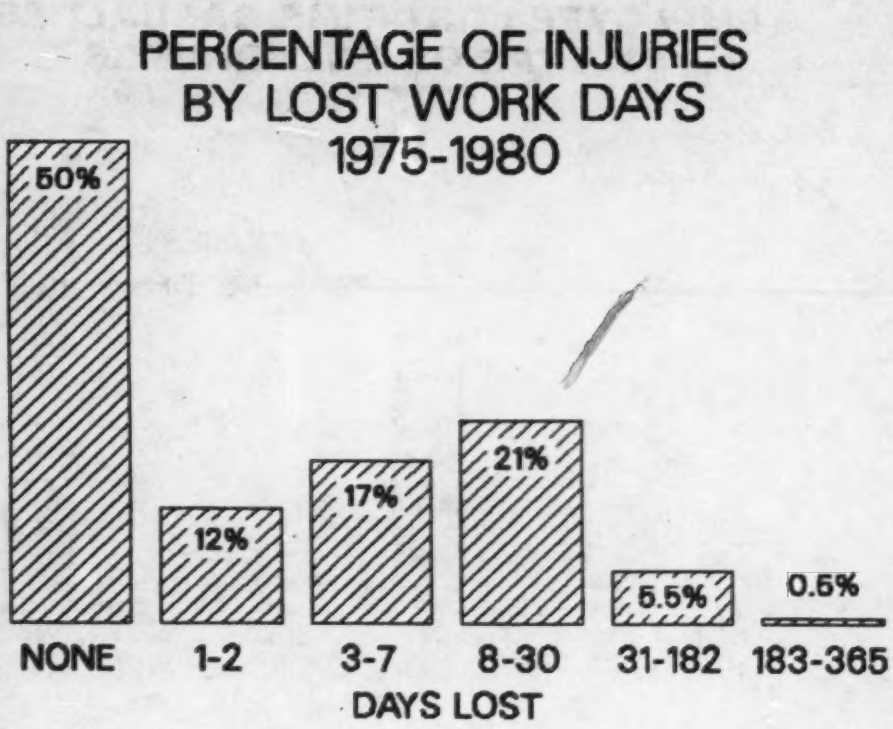

PERCENTAGE OF INJURIES
BY LOST WORK DAYS
1975-1980
50%
12%
17%
21%
5.5%
0.5%
NONE
1-2
3-7
8-30
31-182
183-365
DAYS LOST

FIGURE 7

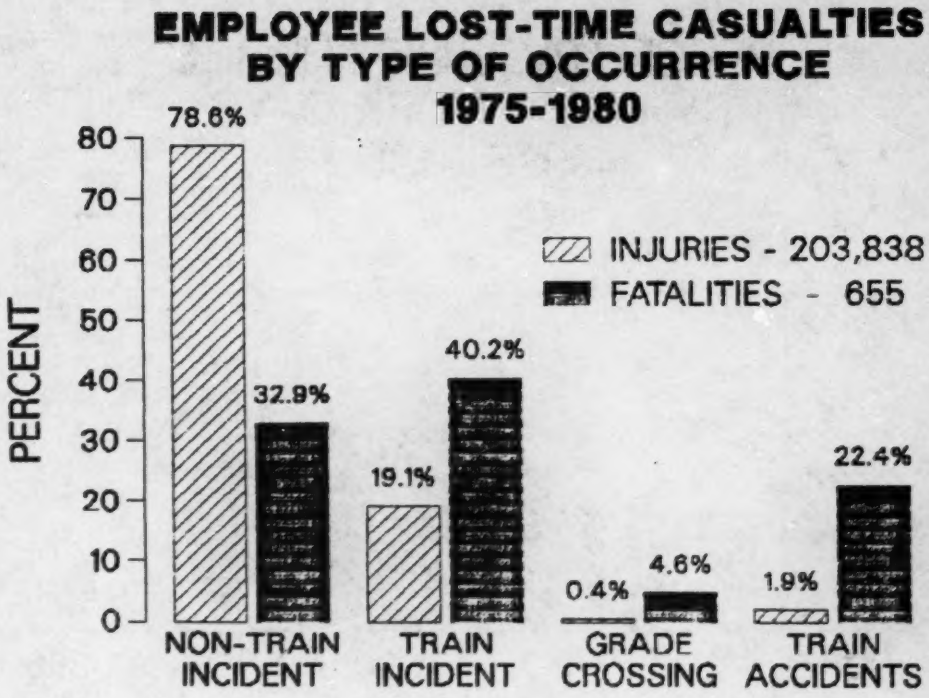


FIGURE 8

TABLE 4—EMPLOYEE CASUALTY DATA SUMMARY 1975–80, CAUSES OF FATALITIES AND LOST-TIME INJURIES

Cause	Fatalities			Injuries		
	Number	Percent	Rank	Number	Percent	Rank
Train accident collisions, derailment and grade crossings	175	26.7	1	4,611	2.3	12
Striking or being struck by equipment or material	166	25.3	2	11,616	5.7	5
Stumbling, slipping, and falling	67	10.2	3	52,765	25.9	1
All others	57	8.7	4	17,426	8.5	3
Coupling/uncoupling locos/cars	33	5.0	5	8,520	4.2	9
Motor vehicle accd	30	4.6	6	3,218	1.6	15
Use of tools	29	4.4	7	20,357	10.0	2
Fire, electric shock	20	3.1	8	1,892	0.9	21
Assault	18	2.7	9	3,002	1.5	18
Flying or falling object	16	2.4	10	7,079	3.5	11
Getting off/on equip	9	1.4	11	9,669	4.7	7
Operating handbrakes	8	1.2	12	3,613	1.8	14
Unexpected movement	7	1.1	13	2,759	1.4	19
Caught between cars/locos	6	0.9	14	251	0.1	22
Defective equipment	4	0.6	15	2,979	1.5	17
Handling material	3	0.5	16	17,409	8.5	4
Slack action	3	0.5	17	3,267	1.6	16
Windo/Door, etc.	2	0.3	18	3,897	1.9	13
Corrosives, fumes	1	0.2	19	1,997	1.0	20
Handling ties	1	0.2	20	10,878	5.3	6
Operating switches	0	0	21	7,634	3.7	10
Object in eye	0	0	22	8,999	4.4	8
Total	655	100.0	.....	203,838	100.0	.....

FIGURE 9

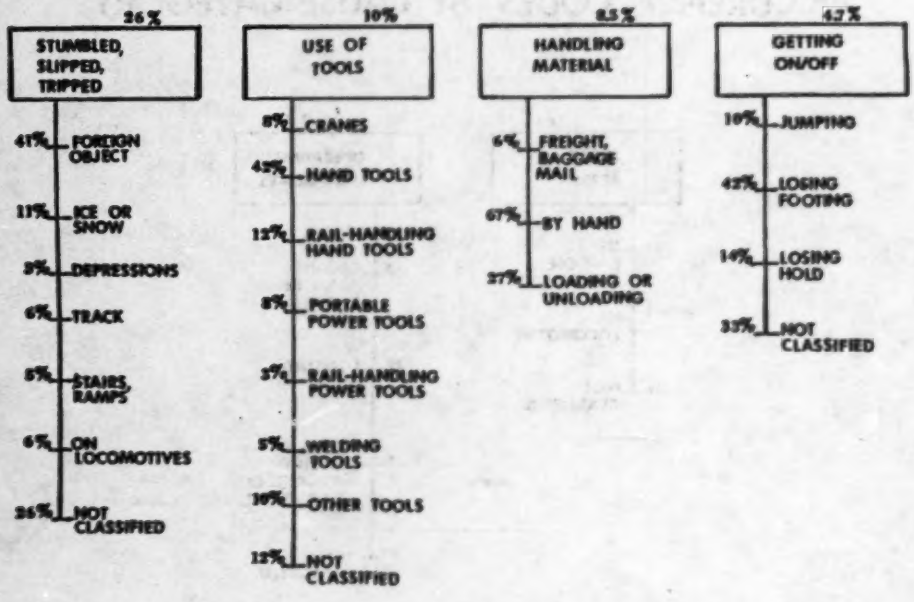
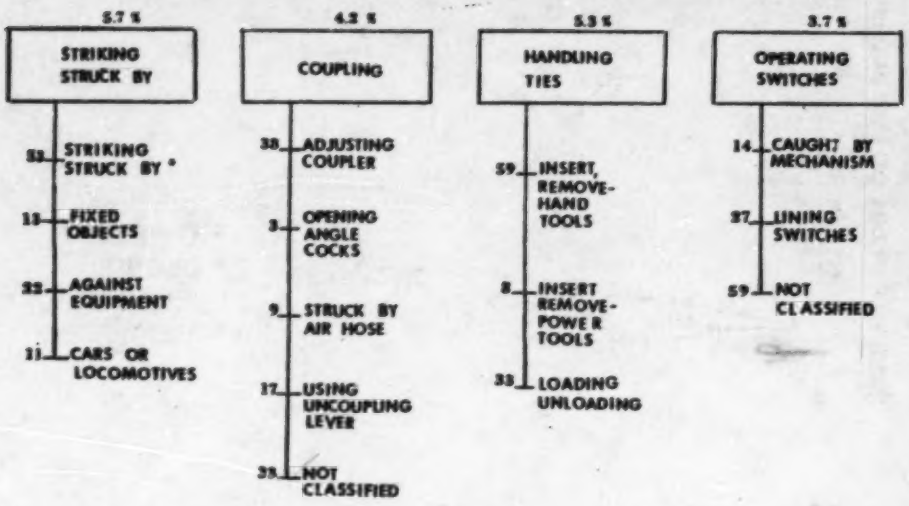


FIGURE 10

OCCURRENCE CODES BY CAUSE CATEGORY



* STRIKING OR STRUCK BY EQUIPMENT, STRUCTURES, OR MATERIALS NOT OTHERWISE CLASSIFIED.

FIGURE 10, cont'd

OCCURENCE CODES BY CAUSE CATEGORY

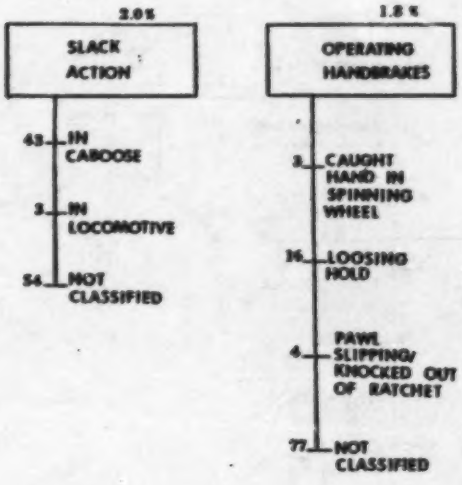


FIGURE 10, cont'd

Hand tools accounted for 42 percent of the injuries associated with use of tools.

Handling material by hand was the largest single cause of injuries associated with handling material.

Losing footing was the most significant cause of injuries associated with getting on and off.

There is a lack of detail in the cause category, striking or struck by equipment structures or material. Fifty-three percent of the cases were coded as striking or struck by equipment structures or material.

Adjusting coupler was the largest single cause of injuries associated with coupling or uncoupling.

Inserting or removing ties using hand tools was the largest single cause of injuries associated with handling ties.

Lining switches was the largest single cause of injuries associated with operation switches. However, 59 percent of the cases in this category were not classified by use of a specific occurrence code.

Slack action in the caboose was the largest single cause of injuries associated with slack action. However, 54 percent of the injuries in this category were not classified by use of a specific occurrence code.

Losing hold was the largest single cause of injuries associated with operating hand brakes. However, 77 percent of the injuries in this category were not classified by use of a specific occurrence code having to do with the operation of hand brakes.

Note that in many of these cause categories, a large percentage of the cases were coded as not classified. This suggests that there is either a lack of appropriate occurrence codes to describe the occurrence or the individuals who are coding the injuries are not using the existing occurrence codes properly or there may be a combination of these two problems.

This figure also points out that the complete elimination of any one of the highest-ranked safety problems would improve overall rail safety by only a few percentage points.

Employee safety research planning draws heavily on several sources. These include the FRA data, the safety data collected by individual railroads, and the assessments of railroad safety officers. Consideration of these sources has led to the planning of research in areas related to tool/task problems, specific injury problems, and data base improvements as outlined in Table 5. The AAR has research underway in tool safety, back injury prevention, and the analysis and improvement of safety data systems.

TABLE 5.—EMPLOYEE SAFETY RESEARCH PROJECT AREAS 1982–87

Tool/task problems: Tool safety research; hand switch safety; materials handling; tie handling; falls prevention; and coupling safety.

Injury problems: Back injury prevention; knee/foot injuries.

Data base improvements: Casualty cost data; means for causal analyses; and improved reporting methods.

Senator DANFORTH. The next witness is A. W. Westphal, legislative research director, United Transportation Union.

What grade do you give the FRA, Mr. Westphal?

STATEMENT OF A. W. WESTPHAL, LEGISLATIVE RESEARCH DIRECTOR, UNITED TRANSPORTATION UNION, ACCOMPANIED BY LAWRENCE M. MANN, COUNSEL TO RAILWAY LABOR EXECUTIVES ASSOCIATION

Mr. WESTPHAL. My counsel said we should advise that we did not graduate from high school and could not grade that agency, Mr. Chairman. But we do have a grade for them, and possibly it will be borne out by the answers to any questions you may have.

My name is A. W. Westphal. As the legislative research director of the United Transportation Union, I am representing James R. Snyder, the national legislative director of the United Transportation Union, who also serves as the chairman of the safety commit-

tee of the Railway Labor Executives Association. Accompanying me is Mr. Lawrence M. Mann, attorney for the RLEA in this matter

The RLEA represents 100 percent of the railroad workers in t' country. And we appreciate the opportunity to provide your committee with our analysis of the rail safety situation.

In the Federal Railway Safety Operations Act of 1980 you required the secretary to submit to Congress a system safety plan. The system safety plan represents a significant backwards step in reducing accidents and injuries.

The FRA is embarking on a plan whereby violations discovered by the FRA inspectors will not be subject to citations and penalties as required by all of the railroad safety laws. Rather, the FRA will now permit a defect to exist until such time as the railroad has the opportunity to correct it. Only if the defect is not corrected within a reasonable time will the FRA impose a penalty.

Obviously, the carriers no longer have an incentive to comply with the regulations. They can simply wait until an FRA inspector happens to discover a defect and then make the necessary repair.

If this continues over an extended period of time, the safety on American railroads will be in the same state of disrepair as when the Federal Railroad Safety Act of 1970 was passed.

One other part of the system safety plan deserves comment. The FRA attributes accidents due to human error as being responsible for more fatalities than accidents caused by either track or equipment defects. We take issue with the underlying data from which the conclusion was reached. As you may know, the railroads are the sole source of determining the cause of every accident. The FRA simply takes the statistics provided by the railway industry and compiles the data in an annual Accident/Incident Bulletins.

We feel that the employee who is involved in an accident should be allowed to submit his view as to why the accident occurred. However, the railroads' failure to comply with existing standards and regulations also are the causes of many accidents, which the railroads blame on human error.

If the blame for an accident is going to be placed on the worker, then he should have an opportunity to provide input to the FRA when the data is analyzed.

The real question is based on public policy to protect workers from an unsafe environment. The data for the years 1975 through 1980 demonstrate that too many persons are unnecessarily killed or injured on the Nation's railroads. During those years, FRA records reveal that 9,202 persons died and 396,415 individuals were injured on the railroads from all causes.

In our statement we outline the data for the years 1975 to 1980. These statistics are tragic. These levels are not acceptable. And hopefully, 1982 will continue the downward trend of 1981.

Based upon primary statistics it appears that injuries, deaths, and accidents were lower in 1981 than in 1980. However, we feel that the rate of injury still is too high. There was never a year—there has never been a year—when less than 45,000 employees were injured. We had hoped to provide you with statistical data of the Federal safety inspector activities for 1981.

We are, however, advised by the FRA that such data is not available. We have been provided with some preliminary statistics. And

based upon those figures, the percentage of defective locomotive units exceeds 30 percent, whereas the percentage of defective cars is 6 percent.

It is obvious that more attention must be given to the locomotives in order to reduce the number of defects which exist on the Nation's fleet.

We direct your attention to the fines collected in the enforcement activities of the FRA during the last few years. These figures are outlined on page 5 of our statement. Your committee has expressed an interest in the 105-type tank cars carrying chlorine gas and LPG. We comment on this matter at page 6 of our statement.

Despite these statistics, we are pleased to inform you that there are some hopeful signs in rail safety. A new atmosphere of cooperation has been exhibited between the Railway Brotherhoods and the Association of American Railroads. After extensive discussions with the AAR, rail labor has agreed to certain modifications in the track safety standards and in section 13 of the Safety Appliance Act.

In addition, an agreement with respect to the signal rules and the power brake rules may be immiment. All of these negotiations were made in good faith with some assistance of the Federal Railroad Administration. The interest shown by the administrator in supporting whatever agreement that is reached between rail labor and the AAR is appreciated. This new cooperative approach could be the basis for further improvements in railroad safety.

I would like to address the proposed administration bill S. 2301, which authorizes appropriations for fiscal years 1983 and 1984. The administration bill seeks only $29,300,000 for fiscal year 1983. This is a reduction of over $11 million from the 1982 authorization.

We oppose the administration's request. We feel that at the very least, the same funds that were authorized in 1982 should be supported by Congress for the subsequent 2 years. Therefore, we respectfully request that the same funds that were authorized in the 1982 legislation be enacted for fiscal years 1983 and 1984.

We regularly bring to your attention the critical need for more safety inspectors to enforce the safety laws. As of March 1, 1982, the FRA had on board 269 safety inspectors classified. Our testimony, page 8, outlines the extensive figures involved in the inspection process of the Nation's rail equipment. Page 9 of our statement outlines rail labor's disappointment with the administration's request to repeal the Ash Pan Act.

We observe that S. 2301 does not provide for funding to assist the States in administering rail safety laws. Apparently, the FRA is no longer committed to achieving the cooperation between the State and Federal enforcement of rail safety which was contemplated by Congress when the Safety Act was passed in 1970. There is a substantial nucleus of States involved actively in enforcing the safety laws, and they should not be deprived of this important function simply because administration policymakers do not want States involved in railroad safety.

When the FRA was before you 2 years ago, it pointed out how effective the automatic track inspection program has been. We have learned that this program is being deleted by FRA, and the

track inspection cars, each of which costs approximately $3 million, will be given to one of the railroads for its personal use.

This leaves FRA with no effective track inspection capability. The FRA inspector, by walking, can cover only a fraction of the distance that the track vehicle can cover.

In the Federal Railroad Safety Authorization Act of 1980 your committee and Congress authorized $500,000 to study alcohol and drug abuse problems along the Nation's railroads. The funds were not appropriated by Congress. In view of the statement by the FRA attributing many accidents to employee error, we feel it is important to determine the extent to which accidents, injuries, tardiness, absenteeism, et cetera, are caused by drug and alcohol problems.

Therefore, we again urge your approval of such funds to study alcohol and drug abuse in the railroad industry. RLEA is concerned by the fact that FRA has failed to fill 20 positions for safety inspectors even though it has money appropriated to hire these inspectors. Of course, this is not a new problem with FRA. But this is the highest number of vacancies that has existed at FRA for many years.

Finally, we would want to apprise you about a current proposal to transfer the Alaska Railroad to the State of Alaska. Recommendations have been made to exempt the railroad from some of the safety laws and regulations. RLEA strongly opposes any waivers or exemptions from the safety requirements. In fact, the railroads should set such a high standard of safety that it would be an example for other private carriers to follow.

In conclusion, Mr. Chairman, we truly believe that if it were not for your committee's continuing interest in improving rail safety, the enforcement program would be in a shambles. RLEA appreciates your assistance in keeping FRA on the right track. My associate, Mr. Mann, and myself would be pleased to answer any questions the committee may have.

Senator DANFORTH. Do you think that the State inspection programs are useful and effective, or do you agree with Mr. Dempsey that they are basically duplicative and that the people involved with them are not as competent as the Federal people, and that you would not lament their passing?

Mr. WESTPHAL. We believe, and I can speak for myself personally as the research director for the United Transportation Union, the largest of the rail labor organizations, and this is based upon the information that is relayed from our State people, even in your State, concerning the State participation in this plan and the service of the State inspectors, we do favor the State participation in FRA programs. We favor the continuation of State inspectors because they have more personal interest in enforcing the laws that they have or the regulations of FRA.

Senator DANFORTH. You do not think that they simply duplicate what the Federal inspectors do?

Mr. WESTPHAL. Not in any way, shape or form, Mr. Chairman.

Senator DANFORTH. Now with respect to human factors as the cause of accidents, it is my understanding of your testimony that you question whether the statistical base is correct, because the cause of an accident is determined by the railroad itself. Under the

circumstances, you are not certain as to the figure pertaining to the human factor.

Is that your testimony, or is your testimony that you just flatly disagree that the human factor is an increasing cause of accidents?

Mr. WESTPHAL. Insofar as the human factor is concerned, Mr. Chairman, the only basis the railroad has for reporting the cause of the accident is the report filed by the employee with the carrier. The carrier then has the opportunity to report what they deem appropriate from the report submitted by the employee as to what they would report to the Federal Railroad Administration.

We feel it is our position that if the human factor is being taken into consideration, if the employee is going to be involved in fault for the accident or the injury, he or she should have an opportunity to have some input into that program.

Senator DANFORTH. I understand. But what is your judgment as to the human factor? We have heard testimony from the National Transportation Safety Board that the human factor element is on the increase. Do you think that that is probably right or probably wrong?

Mr. WESTPHAL. I will ask my counsel, Mr. Mann, to answer that.

Mr. MANN. Mr. Chairman, we do not really know, but there are several things that are happening. No. 1 is the average age of the work force has been drastically reduced. There are many, many newer employees, whereas 5 years ago there were seasoned employees working in the rail industry. That is one aspect.

Another aspect is we do not know the extent to which drugs or alcohol may be a factor in employee errors. We do not know. We have asked Congress to provide some funds so we could find out.

Senator DANFORTH. Do you have a guess?

Mr. MANN. No; we do not. There are only one or two railroads that are involved actively, as we understand it, in determining the effect of drug and alcohol abuse. I mean all railroads are concerned about it, but I am not sure the extent to which it is really being looked at.

Senator DANFORTH. Can that be determined?

Mr. MANN. Well, one railroad on the west coast, Mr. Chairman, is conducting a breatholizer test before an employee goes on duty every day. It may or may not be able to be determined definitively, but if there is a problem, it would seem that a study could determine the extent to which there may be a problem. Right now we do not know.

But we do know a significant number of accidents are attributable to human error. We know also that in our review of a number of accidents that were attributable to human error, if we were making that determination, it would be because of a failure to impose a safety regulation or to comply with a safety regulation.

So that is a bag of worms, that big area. It is easy to say employees are causing—sure, employees are involved in every aspect in some way. But there are many, many factors that cause accidents.

Senator DANFORTH. Well, I do not think anybody is trying to assess blame in any kind of a moral sense. I think the question is what is the cause of accidents and what can be done to reduce the number of accidents. One proposal is to do more in the way of

training and to require the FRA to take a much more active role in training.

Would you agree with that or not?

Mr. MANN. We definitely agree with that, Mr. Chairman. In addition to training, I think we should highlight, though, the atmosphere at FRA at this time. Mr. Blanchette intimated that some of us may not be able to read, and we may not have as many Rhodes Scholars in the rail labor industry as there are in rail management, but we do know what is going on out there.

What is happening is that the Federal inspectors have been instructed not to impose fines. They have been instructed if they discover a violation, that they are to give the railroad an opportunity to correct that defect.

Now that is contrary to every law that Congress has passed with regard to rail safety. We think that if a carrier knows they are not going to be fined, what incentive is there for the carrier to have preventive maintenance? There is none, other than to keep a railroad going, and that is the reason for the enactment of the Rail Safety Act of 1970.

Senator DANFORTH. It would not seem to me that avoidance of fines is the sole purpose of a railroad pursuing safety, but in any event, back to the human factor question. You do favor the increased training concept?

Mr. WESTPHAL. Yes. In fact, Mr. Chairman, at the present time, to my knowledge, I know that the Illinois Central Gulf was indicated as having an employee training program, but to my knowledge, there was only one program that used to be in the area of Kansas City, Mo. on the Atcheson, Topeka, and Santa Fe Railroad where they actually took an employee through 2 or 3 days of exhaustive training with another full time employee who was employed as a trainer for the new employees, and they actually had them perform work, participate in switching activities, and this was a good training program.

I know of no other training program on the Nation's railroads that our organization knows about other than the simulator that is used in the engineer training program.

Senator DANFORTH. I want to ask you a hypothetical question and I want to make it clear that it is a hypothetical question.

Let us suppose that a study were conducted as to alcohol and drug abuse by people who worked for railroads, and let us suppose that the study were accurate. I do not know if it is possible to have an accurate study, but let us suppose that there is an accurate study and let us suppose that the study indicates that there is an alarming amount of alcohol and drug abuse by people who work for the railroads. Again, I do not know if that is the case or not. It is just all supposition, all hypothetical.

Where are we after we have had the study? What do we do next?

Mr. WESTPHAL. This organization, the United Transportation Union and by one of our former presidents, he initiated a program of alcohol and now they have included drug abuse in it. The United Transportation Union has had this program in effect for approximately 6 years and it has proved very effective on a number of railroads, not only that people are pulled out of work, out of service, but they are actively involved in the program and it has resulted

in them being returned to service with the carrier as a result of this program.

Senator DANFORTH. What kinds of people are these? What do they do for the railroad?

Mr. WESTPHAL. These are conductors, brakemen, switchmen. They are not identified insofar as name is concerned.

Senator DANFORTH. Let us suppose that there is a switchman who regularly smokes marihuana on the job. How would he be found?

Mr. WESTPHAL. I do not have much experience, Senator, with marihuana. I know what it smells like and everything, but the other employees would be the first to notice it.

Senator DANFORTH. So the other employees would notice it, and what would they do? They would turn the person in?

Mr. WESTPHAL. I am sure in some way or another he would be referred to probably the union representative and he would in turn handle it, probably to our alcoholic program director in our international office.

Senator DANFORTH. Do we have to wait for a study to solve that problem? I mean suppose that the study shows that it is only 1 percent? It seems to me we always have to study things, and if there is a problem there should be some way of dealing with it. Maybe you already have it. Maybe it is that the union has such a program. I do not know.

But regardless of the number, it would seem that if you have alcohol or drug abuse, it is clearly in the best interest of everybody that something be done about it. The means that you have is to identify the individual and for starters get him off of the line for a while.

Mr. WESTPHAL. I do know for a fact, Mr. Chairman, that our program with the United Transportation Union is working very effectively in the area of alcohol and drug abuse.

Senator DANFORTH. Can we expand that program do you think? Is there more that we should be doing on it? I am just not convinced that what we need are more studies. Maybe there is a reason for studying things more, but it just seems to me that we should get on with it. If there is an effective program, let us make the most of it.

Mr. WESTPHAL. I do know that our program with our organization has proved effective and it has been proven effective with various carriers. I can furnish the committee that information, what carriers have used this program, how effective it has been.

Senator DANFORTH. Should we maybe put something in the bill in that regard? I have not thought about it. Do you have any thoughts about that? I would appreciate hearing them.

Mr. WESTPHAL. We will supply the information for you.

Senator DANFORTH. And the advice.

Mr. WESTPHAL. Yes.

Senator DANFORTH. Thank you very much.

[The statement follows:]

STATEMENT OF J. R. SNYDER, RAILWAY LABOR EXECUTIVES ASSOCIATION

My name is J. R. Snyder. I am the National Legislative Director of the United Transportation Union. I am appearing today as Chairman of the Safety Committee

of the Railway Labor Executives Association. Accompanying me is Lawrence M. Mann, attorney for RLEA in this matter. The RLEA represents 100 percent of the railroad workers in this country, and the names of the constituent organizations are as follows:

American Railway Supervisors Association
American Train Dispatchers Association
Brotherhood of Locomotive Engineers
Brotherhood of Maintenance of Way Employes
Brotherhood of Railroad Signalmen
Brotherhood Railway Carmen of the United States and Canada
Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees
Hotel & Restaurant Employers & Bartenders International Union
International Assn. of Machinists and Aerospace Workers
International Brotherhood of Boilermakers and Blacksmiths
International Brotherhood of Electrical Workers
International Brotherhood of Firemen & Oilers
International Longshoremen's Association
International Organization of Masters, Mates & Pilots of America
National Marine Engineers' Beneficial Association
Railroad Yardmasters of America
Railway Employes Department, AFL-CIO
Sheet Metal Workers' International Association
Seafarers International Union of North America
Transnport Workers Union of America
United Transportation Union

As in past years the railway labor organizations appreciate the opportunity to provide your Committee with our analysis of the rail safety situation. A number of matters have occurred since we last testified before you on rail safety. In the Federal Railroad Safety Authorization Act of 1980 you required the Secretary to submit to Congress a System Safety Plan. Such plan has now been presented to Congress, even though it was a year later than required by law. The System Safety Plan represents a significant backward step in reducing accidents and injuries. The FRA is embarking on a plan whereby violations discovered by the FRA inspectors will not be subject to citations and penalties as required by all of the railroad safety laws. Rather, the FRA will now permit a defect to exist until such time as the railroad has the opportunity to correct it. Only if the defect is not corrected within a reasonable time, will the FRA impose a penalty. Obviously, the carriers no longer have an incentive to comply with the regulations. They can now simply wait until an FRA inspector happens to discover a defect, and then make the necessary repair. If this continues over an extended period of time, the safety on American railroads will be in the same state of disrepair as when the Federal Railroad Safety Act of 1970 was passed. There have been significant safety improvements since the passage of that Act, and Congress should not permit the FRA to nullify everything that you sought to accomplish by the passage of the 1970 law.

One other part of the System Safety Plan deserves comment. The FRA attributes accidents due to human error as being responsible for more fatalities than accidents caused by either track or equipment defects. We take issue with the underlying data from which this conclusion was reached. As you may know, the railroads are the sole source of determining the cause of every accident. The FRA simply takes the statistics provided by the railroad industry and compiles the data in annual Accident/Incident Bulletins. We feel that the employee who is involved in an accident should be allowed to submit his view as to why the accident occurred. Our review of many accidents which are attributable to human error, indicates that the failure of the railroads to adopt certain safety requirements or practices are the real cause. Moreover, the railroads' failure to comply with existing standards and regulations also are the causes of many accidents which the railroads blame on human error. If the blame for an accident is going to be placed on the worker, then he should have an opportunity to provide input to the FRA when the data is analyzed.

Another disturbing aspect of the System Safety Plan is that FRA intends to review its safety regulations based on a cost/benefit analysis. As you can well appreciate, it is impossible to place a value on a man's life. No one can quantify how many lives will be saved or how many injuries will be prevented by the adoption of a specific regulation. The real question is based on public policy to protect workers from an unsafe environment.

While in any given year the statistics may show an aberration, the totals based on a six year compilation may be more informative to the Committee. The data for the

years 1975 through 1980 demonstrates that too many persons are unnecessarily killed or injured on the nation's railroads. During those years, FRA records reveal that 9,212 persons died and 396,415 individuals were injured on the railroads from all causes. In this same period there were 62,325 rail equipment accidents, 8,385 collisions and 48,369 reportable derailments. To place the figures in perspective, the accidents in this period averaged about 30 per day. There were approximately four collisions per day and 22 derailments per day. Excluding damages for personal injuries, the cost to the railroads for such accidents totaled over $1.5 billion for damages to track and equipment. These levels are not acceptable, and hopefully 1982 will continue the downward trend of 1981.

Based upon preliminary statistics it appears that injuries, deaths and accidents were lower in 1981 than in 1980. However, we feel that the rate of injury still is too high. There has never been a year when less than 45,000 employees were injured. This is 10% of the total work force injured each year. If the non-operating employees, are excluded, the percentage would be approximately doubled.

We had hoped to provide you with statistical data of the Federal safety inspector activities for 1981. However, we are advised by the FRA that such data is not available. We have been provided with some preliminary statistics, and based upon those figures the percentage of defective locomotive units exceed 30 percent whereas the percentage of defective cars are 6 percent. It is obvious that more attention must be given to the locomotives in order to reduce the number of defects which exist on the nation's fleet. An interesting observation in the statistical compilations is that while the state inspectors found 9.5 percent of the cars to be defective, the percentages for federal inspectors only totaled 6 percent.

Now we direct your attention to fines collected in the enforcement activities of the FRA during the last few years. In Fiscal Year 1981 the FRA collected a total of $1,329,697 in civil penalties, in contrast with the $15 million that was collected in 1979. We find such lack of uniformity in enforcement appalling. Certainly the railroads have not improved their safety performances as would be indicated by the amount of fines collected. Therefore, the only valid conclusion is that the FRA has de-emphasized the importance of imposing fines for violations discovered by its inspectors.

We are concerned that the FRA has not issued a final rule with respect to retrofitting 105 type tank cars which carry chlorine gas and LPG. As pointed out in the 1980 Senate Report on FRA's authorization, the National Transportation Safety Board has repeatedly recommended the retrofitting of 105 tank cars, and the FRA stated to Congress that a final rule would be forthcoming soon thereafter. To date no final rule has been promulgated. We urge your Committee to exert its influence with FRA to finalize its deliberations on this very dangerous condition which exists throughout the United States.

In 1975 Congress required that whenever the National Transportation Safety Board submits a recommendation regarding safety to the Secretary, he must respond to each recommendation in writing within 90 days. (49 U.S.C. § 1906). We have learned that the Secretrary is generally disregarding the statutory mandate and has responded only to some of the NTSB rail safety recommendations. We hope your Committee will investigate this issue, and seek compliance by DOT.

Despite the above we are pleased to inform you that there are some hopeful signs in rail safety. A new atmosphere of cooperation has been exhibited between the railway brotherhoods and the Association of American Railroads. After extensive discussions with the AAR, we have agreed to certain modifications in the track safety standards and in § 13 of the Safety Appliance Acts. In addition, an agreement with respect to the signal rules and the power brake rules may be imminent. All of these negotiations were made in good faith and with some assistance of the Federal Railroad Administration. The Administrator has directed his attention to this important breakthrough in dealing with safety problems. The interest shown by the Administrator in supporting whatever agreement that is reached between rail labor and the AAR is appreciated. Rail labor is satisfied that the agreed to changes will strengthen safety enforcement and will reduce accidents, injuries and deaths on our nation's railroads. In addition, this new cooperative approach could be the basis for further improvements in rail safety.

Now I would like to address the proposed Administration Bill, S.2301, which authorizes appropriations for fiscal years 1983 and 1984. The Administration Bill seeks only $29,300,000 for fiscal year 1983. This is a reduction of over $11 million from the 1982 authorization. We oppose the Administration's request. We feel that at the very least the same funds that were authorized in 1982 should be supported by Congress for the subsequent two years. The fact that Congress may not appropriate all of the funds that is authorized does not justify seeking less than what is needed to

adequately administer all of the rail safety laws and regulations. Therefore, we respectfully request that the same funds that were authorized in the 1980 legislation be enacted for fiscal years 1983 and 1984.

We regularly bring to your attention the critical need for more safety inspectors to enforce the safety laws. As of March 1, 1982 the FRA had on board 269 safety inspectors classified as follows: 97 motive power and equipment, 45 operating practices, 72 track, 29 signal and train control, and 26 hazardous materials. In addition there were 47 supervisors in the field, which is one for every five safety inspectors. With that staff FRA is required to inspect approximately 300,000 miles of track, 28,000 locomotives, 1.7 million freight cars and 125,000 miles of signal systems. It is an almost overwhelming job to accomplish with the relatively few numbers of safety inspectors on board. In the Washington Office of Safety there were 62 employees on board. Between the supervisors and the Washington personnel, there may be too many chiefs and not enough Indians to properly administer the rail safety program.

As mentioned previously the RLEA and AAR have agreed to an amendment to § 13 of the Safety Appliance Acts. Such change would permit a railroad to transport a defective car to the nearest repair point even though the car may pass through corporate interchange. Under present law no defective car can pass through a corporate interchange point. The effect of the proposed change is that in all instances the defective car must be taken to the nearest available repair point. For example, if a delivering railroad discovers a defect on its line and the nearest repair point is on its own railroad, it cannot transport the defective car across interchange to another railroad without first being repaired. We have discussed with the AAR the specific language of the proposed bill, and will provide the Committee with the appropriate technical language.

We are somewhat disappointed and angered at the Administration's request to repeal the Ash Pan Act. Soon after Mr. Blanchette became FRA Administrator, he held a joint meeting with the representatives of AAR and RLEA. At that meeting Mr. Blanchette stated that no legislation would be proposed unless it is at first discussed with both parties. Now for the very first time we are apprised of a proposal in this Congress to repeal the Ash Pan Act. As a practical matter the Ash Pan Act is not one of the most important of the railroad safety statutes. However, it cannot be a significant problem to the railroad industry either. We feel the reason the proposed repeal is contained in the Administration's bill at this time is nothing more than an underhanded cut at rail labor.

We observe that S. 2301 does not provide for funding to assist the States in administering the rail safety laws. Apparently the FRA is no longer committed to achieving the cooperation between the State and Federal enforcement of rail safety which was contemplated by Congress when the Safety Act was passed in 1970. We recognize that the State program has not worked as effectively as we originally anticipated. However, there is a substantial nucleus of States involved actively in enforcing the safety laws, and they should not be deprived of this important function simply because administration policy makers do not want States involved in railroad safety. Moreover, it should be kept in mind that each dollar of federal funding to states buys two dollars worth of enforcement.

We further note that the Administration bill does not segregate funds to be used for each area of safety such as research and development, state enforcement and for the specific numbers of inspectors in the Office of Safety. Without such provisions in the legislation, the complete discretion of the Administrator may not result in the expenditure of funds in accordance with the wishes of Congress. It would be too late to complain after the monies have been spent. Therefore, we suggest that your Committee follow the practices that you have adopted for the authorization in prior years.

When the FRA was before you two years ago it pointed out how effective the automatic track inspection program has been. We have learned that this program is being deleted by FRA and the track inspection cars (each of which cost approximately $3,000,000) will be given to one of the railroads for its personal use. This leaves FRA with no effective track inspection capability. The FRA inspector, by walking, can cover only a fraction of the distance that the track vehicle can cover.

In the Federal Railroad Safety Authorization Act of 1980 your Committee and Congress authorized $500,000 to study alcohol and drug abuse problems on the nation's railroads. The funds were not appropriated by Congress. In view of the statement by the FRA attributing many accidents to employee error, we feel it is important to determine the extent to which accidents, injuries, tardiness, absenteeism, etc. are caused by drug and alcohol problems. Therefore, we again urge your approval of such funds to study alcohol and drug abuse in the railroad industry.

RLEA is concerned by the fact that FRA has failed to fill twenty positions for safety inspectors even though it has money appropriated to hire these inspectors. Of course this is not a new problem within FRA, but this is the highest number of vacancies that have existed at FRA for many years.

Finally, we want to apprise you about a current proposal to transfer the Alaska Railroad to the State of Alaska. Recommendations have been made to exempt the railroad from some of the safety laws and regulations. RLEA strongly opposes any waivers or exemptions from the safety requirements. The fact that the Alaska Railroad is owned by a governmental agency is not a valid basis for exemption from compliance with all the railroad safety strandards. In fact, the railroad should set such a high standard of safety that would be an example for other private carriers to follow.

In conclusion, we truly believe that if it were not for your Committee's continuing interest in improving rail safety, the enforcement program would be in shambles. RLEA appreciates your assistance in keeping FRA on the right track.

[The following information was subsequently received for the record:]

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
RAILWAY LABOR BUILDING,
Washington, D.C., April 16, 1982.

Hon. JOHN C. DANFORTH,
Chairman, Senate Subcommittee on Surface Transportation, Washington, D.C.

DEAR SENATOR DANFORTH: During the presentation of RLEA testimony regarding FRA Safety, Tuesday April 13th, the matter of the human factor in accidents was questioned.

In the above matter, we had supported funding for alcohol and drug programs to determine the extent to which accidents, injuries, tardiness, etc., are caused by such problems.

Responding to your request for additional information relative to the problem and what Rail Labor has done, I enclose the following material:[1]

1. Two booklets distributed by UTU relating to the alcohol problem.
2. Printed results of a two (2) year study re: Problem Drinking Among Railroad Workers: Extent—Impact—and Solutions.
3. Current listing of Alcohol and Drug Abuse Programs and Railroad Industry Status.
4. Outline of related program scheduled in 1982 by Rail Labor—Management and the FRA at the Metropolitan College of the University of New Orleans, June 24-25.

We appreciate the opportunity to furnish your subcommittee the enclosed additional information.

Sincerely yours,

J. R. (JIM) SNYDER,
Chairman, RLEA Safety Committee.

Alcohol and drug abuse programs, railroad industry status

Atchison Topeka & Santa Fe	yes	Illinois Central Gulf	yes
Bangor & Aroostook	yes	Kansas City Southern	no
Boston & Maine	yes	Long Island	yes
Burlington Northern	yes	Milwaukee Road	yes
Central of Vermont	yes	Missouri Pacific	yes
Chessie System	yes	Missouri-Kansas-Texas	no
Chicago & Northern Western	yes	National Railroad Passenger Corporation	yes
Conrail	yes	Norfolk & Western	yes
Delaware & Hudson	no	Pittsburgh & Lake Erie	no
Denver & Rio Grande	yes	Maine Central	yes
Duluth Missabe & Iron Range	yes	Soo Line	no
Duluth Winnepeg & Pacific	no	Southern Railway	yes
Elgin Juliet & Eastern	yes	Southern Pacific	yes
Family Lines	yes	Union Pacific	yes
Grand Truck Western	yes		

[1]The material supplied is in the Committee files.

Senator DANFORTH. Next we have a panel: Charlotte Musgrave, Frank Cochran and William Druhan.

Mr. Cochran, I understand you have a plane to catch. Therefore, if you would like to proceed first, you may do so and then you are excused when you finish your testimony.

STATEMENTS OF FRANK D. COCHRAN, CHAIRMAN, TENNESSEE PUBLIC SERVICE COMMISSION; CHARLOTTE MUSGRAVE, COMMISSIONER, MISSOURI PUBLIC SERVICE COMMISSION; AND WILLIAM T. DRUHAN, ASSISTANT TO THE DIRECTOR, AMERICAN ASSOCIATION OF STATE HIGHWAY TRANSPORTATION OFFICIALS

Mr. COCHRAN. Chairman Danforth, I appreciate this opportunity as chairman of the Tennessee Public Service Commission to present the views of the Tennessee Commission concerning the funding of the Federal-State rail safety cooperative program.

First let me say that we support funding of the program because it is just now beginning to show its fruitfulness through protection of the general public. Its discontinuance would seriously jeopardize the safety and well-being of millions of people who are exposed to the hazards of rail transportation in Tennessee and the Nation.

When the Federal Railroad Administration first started to police rail safety, there was a period of approximately 4 years, 1974 to 1978, in which derailments and accidents increased over 100 percent in Tennessee. This was a period in which the Federal Railroad Administration was in its infancy, understaffed, and totally unable to adequately police rail safety.

Therefore, railroads, not being closed inspected, chose to defer maintenance on their tracks and equipment, thereby causing serious safety problems.

Since 1978, with and through the cooperative efforts of the Tennessee Public Service Commission and the Federal Railroad Administration, we have shown great progress in the improvement of rail safety in our State. In fact, we have seen a dramatic decrease in the number of derailments. For example, in Tennessee we had a 35-percent decrease in the number of derailments in 1979 over 1978. In 1980 we had an additional 35-percent reduction, and in 1981 we had a further reduction of 41 percent.

You can see by these figures that the State and Federal partnership in Tennessee is making great progress in accomplishing the original design of the Federal Railway Safety Act. The railroads in Tennessee are in safer operating condition than they have been since the early 1970's. In fact, the number of derailments reported in 1981 is the lowest number of derailments in Tennessee in the last 16 years. These statistics show that the cooperative rail safety program is just beginning to show its benefits.

I fear, and my colleagues fear, that if Federal participation in the funding for the rail safety program ends, that rail safety will deteriorate and begin to expose people to more and more hazards.

For example, Tennessee ranks seventh in the Nation in transportation of hazardous materials. A great deal of hazardous cargo is produced and shipped out of Tennessee. And Tennessee, being a crossroads State for rail traffic, also is exposed to a great deal of

this type of cargo movement. One of the worst disasters in Tennessee history occurred just 4 years ago in a small middle Tennessee town called Waverly. In February of 1978 a derailed propane tanker exploded in the heart of this town, causing 16 deaths and 50 injuries. A portion of this town was reduced to ashes, and 66 families will forever bear the scars of this tragedy.

The removal of the Federal portion of the funds for the rail safety program would be a serious step backwards and has the potential to permit a tragedy such as this to occur again.

It is my fear that the States will not fund a program that is controlled and run entirely by the Federal Government. I feel that the States will simply say, "We have no input or control, and why should we pay for such a program."

It is my opinion that the States, finding themselves in budget crunches, will drop out of this program. The Federal Government will then find itself in the position of policing all rail safety, and the program will ultimately cost more than the administration is presently trying to save.

In closing, let me say that the money we are talking about relates to the overall Federal budget in the way a grain of sand relates to a beach. I have seen the death and destruction in Waverly, Tenn., caused by the rail disaster, and I can find no way in which to relate the value of human lives to this relatively small expenditure of funds for safety. I urge you to continue funding for this very important program.

Thank you, sir.

Senator DANFORTH. Thank you.

Ms. Musgrave.

Ms. MUSGRAVE. Good morning, Senator Danforth. I am here speaking as a member of the Missouri Public Service Commission and also representing the National Association of Regulatory Utility Commissioners, which is NARUC.

The members of the State regulatory agencies engaged in the regulation of common carriers across the Nation oppose deletion of the Federal grants-in-aid funding for the railroad safety program. We strongly support reauthorization of this program, with funding of $2.7 million in the fiscal year of 1983 Federal Railroad Administration budget, in order to continue at least partial Federal funding of this program.

FRA's failure to provide 50 percent matching funds to States sharing the responsibility of enforcing Federal regulations places these States at a distinct economic disadvantage, and may force some of these States to drastically cut back their programs. These cutbacks are likely to reverse the trend toward safer railroads that correlates directly with growing State involvement in FRA's railroad safety program.

There are currently 31 States participating in the program, with 92 State inspectors. This represents almost 47 percent of the Nation's traffic equipment inspectors. It is largely through this effort of the State inspectors that FRA has been able to enforce Federal safety standards, and thereby reduce railroad accidents.

Each year the Nation's railroads destroy fewer and fewer lives and property. Accident rates dropped from 12.4 per million train-miles in 1979 to 11.4 in 1980, and to 8.2 in 1981. In Missouri, Mr.

Chairman, our rates were just as significant as they were nationwide. For 216 derailments in 1981, the PSC staff found that 76 were track-related; 42 resulted from mechanical problems, and 69 were caused by operating errors, and 29 fell into the vandalism or weather-related problems.

Sixty percent of today's railway accidents are attributable to equipment or track defects or improperly maintained tracks and roadbed. These are preventable accidents, the target of the railroad safety program.

Requiring the States, many of which are already struggling to meet their share of the matching funds, to carry the entire burden for participation in the program, is not the answer. This will force many States to cut their efforts or to withdraw from the program entirely, leaving the FRA to cover the entire costs.

The provision of such financial assistance to State agencies will reduce the need for establishing a large Federal field staff, and thereby permit the Congress to maintain its railroad safety program at far less than it would otherwise cost for the Federal Government to assume the entire financial burden.

The advantage of the State-Federal partnership in enforcing railroad safety regulations goes beyond the millions of dollars saved by the Federal Government during the last 11 years. The partnership provides for a more effective administration of the program, in the spirit of the administration's emphasis on returning to the States those responsibilities that can be more effectively handled by those closer to the particular needs of their constituents.

As important as adequate and dependable funding is to the State-Federal rail safety program, there exists other, less tangible factors which contribute to the success of this cooperative effort. Specifically, the NARUC believes that State participation in enforcing Federal rail safety standards must be based upon strong cooperation and understanding by the FRA and the States.

During the early years of the State participation program, relations between FRA and the participating State agencies were often strained. Despite the improved atmosphere, however, FRA should take additional steps to insure the fullest measure of State participation in the program.

First of all, we believe it is crucial that FRA finalize its revised State participation regulations at the earliest possible time. Second, we believe that FRA must make serious efforts to solicit the participation of States not currently in the participation program.

By improving its relationships with the States currently participating in the program, and by encouraging nonparticipants to enter, we believe that the Federal-State railway safety partnership can be successful, as that which was established to oversee the Natural Gas Pipeline Safety Act.

I believe that the growing level of State participation and the corresponding decrease in the number of rail accidents stand as the best evidence of the ever-increasing State commitment to the rail safety program of the Federal Railroad Administration. We urge your support for the program's continuation. Thank you.

Senator DANFORTH. Mr. Druhan.

Mr. DRUHAN. Thank you, Mr. Chairman. I have statements for the record by the States of Iowa, Florida, and New York. With your

permission I would like to place them in the record. All three States heartily endorse the continuation of Federal funding for the rail safety State participation program.

I also have, Mr. Chairman, a prepared statement of my own, which I would also like to submit for the record, and to use my available time to summarize the statement.

Senator DANFORTH. Certainly.

Mr. DRUHAN. I should emphasize, so that you know, that I am speaking this morning for the National Conference of State Rail Officials, which is a standing committee of the American Association of State Highway and Transportation Officials. We did not have the opportunity to get a vote from the highway officials before this morning.

Frankly, Mr. Chairman, we are at a loss to understand why the program is being recommended for discontinuance. I noted particularly that this morning Mr. Blanchette did not give a reason. He just stated that it was going to be abolished.

The States were not consulted beforehand; nor have we received any information subsequent to the decision made that the program should not be funded. As has been alluded to, though, I believe what they are referring to, as my predecessor just said, is that they are trying to say that the program should be administered by the States since it is a State program; this is an overall administrative policy.

Our position is that discontinuance is a misapplication of the policy because what we have is a partnership arrangement where the States are reimbursed for part of the costs they are incurring on behalf of the Federal Government. It is not the usual sense where the States are being reimbursed for something they should have been doing in the first place, which is the overall policy.

As we say, the consequence will be that the Federal Government will lose money because it will have to pay what is now the State share; it will have to pay 100 percent.

You also indicated this morning you were concerned with whether or not there is an overlapping or duplication of effort by Federal and State rail inspectors. I disagree with the testimony given by Mr. Johnston of the AAR. I do not doubt that he could come up with examples to show where there has been overlapping, but I would seriously question whether or not he could give us a point of reference where there had been many instances. I also doubt whether or not those instances are timely.

This is one of the things that confuses us because Congress has prodded the FRA to get this program off the ground for 10 years. In my formal testimony I give a number of quotes where year after year, the Congress prodded the FRA stressing it must get this program off the ground; FRA must bring more of its own inspectors on board; FRA must get more States involved. Congress restricted FRA's research funds. Congress did everything it could to get FRA to bring this program up.

It has been during the last 2 years that FRA started to accomplish the congressional mandates. Under Mr. Blanchette and Joe Walsh, the new Administrator for Safety, FRA has done a commendable job. The cooperation between our organizations has increased overwhelmingly. FRA formed a task force with NARUC,

NCSRO, and themselves. We have worked out our differences. We are working harmoniously. We have eliminated the overlapping. We have eliminated duplication. We are doing everything we can to get the program running. And then without notice FRA says it is canceling the program.

Now something is being pulled that we are not aware of and we certainly were not informed about. I think that the present staff on board at the FRA is doing a commendable job with our organization to get rid of the past problems. We have a difficulty with paying inspectors at the same rate, but that is being worked out with them. We have worked out the differences in regulations.

Another point that the Administrator made was that he is hiring 20 new inspectors that should not be considered in lieu of the State inspectors. But you must remember that even with those, he is not up to the level Congress authorized. So if he is allowed to eliminate the State program, we fear he is going to revert back to the original level or below.

Finally, you ask me to specifically comment on whether or not the program is successful. Each of the States' statements indicate that it was. I personally would have to have certain qualifications because there is no specific criteria to determine what safety level we should reach and who is responsible for it. As Mr. Blanchette said, one major accident can throw your statistics out of whack, and we have no criteria.

The fact remains that there has been improvement and one is striving toward more. We have a cooperative program and we have a very cheap program. It should be remembered the total allocations have only been $8.3 million—we do not speak in millions often these days, but it is only $8.3 million in 10 years, and 50 percent of that has been allocated under the present administration. FRA has shown its sincerity, but now they are withdrawing it.

My time is up, Mr. Chairman, but I would be glad to answer any questions.

[The statement follows:]

STATEMENT OF WILLIAM T. DRUHAN, NATIONAL CONFERENCE OF STATE RAILWAY OFFICIALS

Mr. Chairman, the National Conference of State Railway Officials (NCSRO) appreciates very much the opportunity to appear here this morning to express our views on the rail safety State Participation Program. In order that you may understand our organizational structure, I should mention that the National Conference of State Railway Officials is a Standing Committee of the American Association of State Highway and Transportation Officials (AASHTO). NCSRO is composed of one rail offical from each state. Only two states (neither participants in the program) cast dissenting votes regarding our policy position on this matter. Unfortunately, there has been insufficient time to poll the AASHTO membership. Therefore, today I am representing the opinions of NCSRO and not necessarily those of AASHTO.

NCSRO is strongly opposed to the fiscal year 1983 budget proposal that no funds be appropriated for the rail safety State Participation Program. Denial of these funds will surely result in an adverse impact on safety and/or FRA will not achieve the savings anticipated.

Frankly, Mr. Chairman, we are at a loss to understand why the program is not being recommended for continued funding. The states were not consulted before this decision was made nor has an explanation subsequently been furnished. The program is not being terminated because it has not been successful, nor has it been economically unsound. Rather, the termination is an inappropriate application of a political principle.

According to testimony presented week before last by Administrator Blanchette before the House Appropriations Subcommittee, the Department believes the decision not to fund the program is a furtherance of the overall Administration policy to the effect that non-required state programs should be fully funded by the states that desire such programs.

Without attempting to comment on the merits of this policy, I submit that the policy is not applicable to this program. The federal government unquestionably has responsibility for rail safety enforcement. This fact has been clearly defined in the enabling legislation and the implementing regulations. Thus, when a participating state employs an inspector and the costs are shared 50-50 by the state and the federal government, the state is not receiving a grant from the federal government in the usual sense. Rather, the state payment of 50 percent of the cost is grant to the federal government since it is contributing to the relief of a federal responsibility. If the states do not continue the program at the present level, failure of the federal government to fund this program will result in additional costs to the federal government—not a savings as is apparently envisioned.

There have been considerable coordinating efforts between the federal and state inspectors designed to prevent duplication or overlapping of effort. A parallel fact is the pronouncement by Administrator Blanchette that the FRA is unequivocally committed to not reducing current safety inspection efforts. Thus, to maintain this inspection effort the Administration is either assuming that the states will not reduce the number of inspectors when federal funding is eliminated or that FRA will increase its staff to compensate for the loss of any state inspectors. I believe that both of these assumptions are erroneous.

No information is available at this time as to what degree, if any, states will continue current inspection efforts without federal funding. Nevertheless, it is believed that given the present economic climate and competition for limited available funds in many states, it is reasonable to assume there will be a considerable reduction in state efforts if federal funding is eliminated. Thirteen states had inspection programs before the federal-state partnership was established by the Rail Safety Act of 1970. These 13 states presently employ 50 percent of the state inspectors. If it can be assumed these states will continue at the present level without federal funding, the program would still be reduced by 50 percent.

The FRA fiscal year 1983 budget includes a request for 20 additional rail inspectors. In this regard, it should be pointed out that Administrator Blanchette testified these additional inspectors are needed under present conditions and are not related to whether eliminating funding to states impacts on current inspection levels. Therefore, it can be seen that the Administration is making no plans to overcome a reduction in state inspection efforts which can reasonably be anticipated if federal funding is eliminated.

Mr. Chairman, in your letter of invitation you asked that I specifically comment on whether the program has been successful. It is diffficult to respond with the degree of specificity we both would desire. The principal difficulty is that there is no generally accepted criteria for determining success. I am sure you are familiar with the FRA published safety statistics indicating there has been a dramatic decrease in recent years in total accidents, fatalities and personal injuries. These facts are encouraging but do not necessarily indicate success for the State Participation Program because there is no way to quantify the degree of this success attributable to the program. Obviously, credit for much or most of this improvement must go to the railroad industry. It has been shown that there is a direct correlation between safety and the financial condition of the industry. On the other hand, a number of states attribute significant decreases in the number of accidents to the program. Florida, for example, reported that annual derailments decreased from 274 in 1977 to 52 in 1981. It became a participant in the program in 1978. Although there are probably different opinions as to whether and/or to what degree the program has been successful, there is no evidence or even an allegation that the program has been a failure. Admittedly, the program has not been as successful as originally envisioned by Congress when it was established in 1970. Nevertheless, it has shown considerable improvement in recent years.

Congress continuously prodded the Department from 1971 to 1980 to increase the number of states participating in the program. For example, the House report accompanying the Transportation Safety Act of 1974 stated, "Unfortunately, the committee does not find evidence of a sense of commitment on the part of the Federal Railroad Administration. If there is a sense of urgency in this regard within the Department of Transportation and the FRA, it did not manifest itself in the testimony presented in three days of hearings on this legislation. Indeed, the Committee was alarmed at the priorities set by the FRA's Office of Safety in regard to the use

of their federal appropriations, and in the manner in which the agency responds to the intent of Congress in the 1970 Act."

The House report accompanying the Federal Railroad Safety Authorization Act of 1975 stated, "Testimony before the Committee by FRA tends to support the Committee position that more inspection and enforcement activities are essential to any immediate improvement in railroad safety."

It also stated, "The committee feels the . . . FRA is not doing its job adequately. The Committee also feels that a major reason for this problem is that the FRA has consistently failed to avail itself of the safety inspectors and funds authorized by this Committee." Further, "The committee feels that FRA should move expeditiously to encourage more states to participate in the enforcement of federal rail safety regulations." The Senate report accompanying the Federal Railroad Administration and the nation's railroads to make major safety gains continues to be a source of great frustration to the Committee."

It appears to be somewhat prophetic that the supplemental views of Congressman James Broyhill to the House report accompanying the Federal Railroad Safety Authorization Act of 1980 clearly and succinctly describes the problem that we are facing today. In this instance he was referring to a section permitting the states to bypass the federal government in certain instances. He stated in this regard, "For this reason for federal preemption in the area of railroad safety is that the integrated nature of the railroad system requires strong, firm, and uniform safety standards. By opening up enforcement of railroad safety laws to each of the states, without any time for the federal government to act, will be encouraging a hodge podge of enforcement under railroad safety laws.

"I can understand the frustration of all of us if the federal government is not doing the enforcement job it is supposed to do. However, the remedy for dereliction by the federal government is to improve the procedures or personnel of the federal government. Remedy should not be to abandon the federal responsibility by passing the buck to the states."

Abandoning this safety program by budgetary fiat will be tantamount to returning to the chaos that existed prior to the enactment of the State Participation Program. To understand why the Federal Railroad Safety and Hazardous Materials Transportation Control Act of 1970 was enacted let me quote a few excerpts from the accompanying House report.

"The record presented in the hearings on this legislation leads to the unqualified conclusion that there can be, should be, and must be a substantial upgrading of the level of railroad safety."

"The trend of accidents is increasing and the Committee fully endorses the view that such a trend should be reversed."

"There are virtually no uniform state regulations. There has not been a sizeable or particularly active research program on anything approaching a national scale, and track, roadbed, and equipment safety have deteriorated."

"There is a strong consensus which makes it appear clearly that the time is now here for broad scale federal legislation with provisions for active state participation to assure a much higher degree of railroad safety in the years ahead."

"As indicated, the need for safety improvement and legislation to assure such improvement is well established and is unquestioned by all parties interested—labor, management, state representatives, for example."

"Existing federal and state rail safety regulations do not in most instances provide standards for track, roadbed, equipment, employee training and qualifications, or rules governing safe railroad operations."

And finally—"The Committee does not believe that safety in the nation's railroads would be advanced sufficently by subjecting the national rail system to a variety of enforcement in 50 different judicial and administrative systems."

I believe, Mr. Chairman, that abandonment of the State Participation Program at this time would set us back over a decade. Many of the problems encountered in the early years of the program have now been solved to a large degree. The Department supported the program during the past two years more enthusiastically and with more success than it did during the preceding 10 years. With the enactment of the 1980 Act expanding the program to include disciplines other than track and car inspectors, the Department sincerely attempted to implement the program to the degree intended by Congress. It formed a joint DOT-NARUC-NCSRO task force to revise the regulations and solve other problems in our ongoing partnership. It is therefore ironic that after struggling for this type of relationship for over ten years that when it is well on its way to being accomplished the Department would suddenly propose to cease funding of the program.

This program is probably one of the smallest government programs from a funding standpoint. Only $8.3 million has been obligated since the inception of the program in 1970. Almost 50 percent of this amount was obligated in 1980 and 1981. The Department is probably in a better position to indicate what would be a sufficient amount to be authorized for the continuation of the program in fiscal year 1983. Nevertheless, we believe that approximately $3.5 million would probably be sufficient.

Senator DANFORTH. Ms. Musgrave, in addition to the Missouri Public Service Commission, you are appearing here on behalf of whom?

Ms. MUSGRAVE. The National Association of Regulatory Utility Commissioners, NARUC, which is the organization of all the public service commissioners in the Nation.

Senator DANFORTH. All right. And Mr. Druhan, you are appearing on behalf of whom?

Mr. DRUHAN. The National Conference of State Rail Officials, which is a standing committee of the American Association of State Highway and Transportation Officials.

Senator DANFORTH. Now, I would like each of you to do something for this subcommittee. Would you write a letter to the subcommittee answering the following two questions. One, what do State inspectors do that Federal inspectors do not do? The thrust of this is why do we need State inspectors in addition to Federal inspectors? It has been said that they are not as well trained, that they are duplicative. I would like you to answer that point head on, and tell us why we need State inspectors as well as Federal inspectors.

Second, if the funds are eliminated for the State participation program, what would happen to these 94 people? Would they be largely picked up by the States anyhow? Would the programs be abolished in the States? I know that that is basically a matter of conjection regarding what is going to happen, but I would like your best judgment on this question. Also, I would like to get your response before we mark up this bill because, obviously, we are going to have to make a decision on what to do about the funds for the participation program.

[The following information was subsequently received for the record:]

NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS,
Washington, D.C., April 15, 1982.

Hon. JOHN C. DANFORTH,
Chairman, Senate Surface Transportation Subcommittee, Commerce, Science, and Transportation Committee, Immigration Building Annex, Washington, D.C.

DEAR SENATOR DANFORTH: Thank you for your interest in the Federal Railroad Safety program of the Federal Railroad Administration (FRA), particularly in the area of State participation and the allocation of State grants-in-aid funding.

One can only speculate about the future of State inspection programs without 50 percent grants-in-aid funding. The growing level of State participation demonstrates the State commitment to the program, but economic realities may force many States to reduce their level of participation, or to withdraw from the program entirely.

Even those States that expect to maintain their participation levels despite loss of grants-in-aid funding may be disappointed after the railroad safety program issue is thrust into the political arena for additional State appropriations.

Because States sometimes appropriate funds a year or two in advance, the railroad safety programs are likely to undergo at least temporary reductions between budget sessions. Even if the railroad safety programs are considered during special

budget sessions, it is unlikely that they will be able to generate the level of support of railroad interests as during regular budget sessions, particularly as the railroad safety programs compete for funding with other more politically pallatable concerns—education, health and community programs.

We again emphasize that States are committed to the railroad safety program, but that many States may be forced to withdraw from the program because they are unable to compensate for everincreasing budgetary demands.

Concerning the question of duplication of Federal and State inspection efforts, one need only examine the statistics to realize the skeletal inspection force currently inspecting the Nation's 300,000 miles of railways and 1.7 million freight cars is insufficient. With only 162 Federal and State inspectors responsible for track inspections, at roughly one inspector per 1,900 track miles, and 127 Federal and State inspectors responsible for freight car inspections, or one inspector for every 13,400 freight cars, there appears little room for duplicated inspections.

The appearance of duplication may stem from the fact that some State inspectors are not authorized to conduct the level of inspections conducted by Federal inspectors. Because the FRA has not finalized its revised State participation regulations, States are limited to the restricted authority granted in the Railroad Safety Act.

For instance, while conducting a particular freight car inspection, State inspectors are authorized to inspect only safety standards such as wheels and car frames. Only Federal inspectors are authorized to inspect that freight car's breaking system and employee safety standards, such as ladders and steps. The result is the appearance of duplicate inspections.

Revision of the State participation requirements, as pointed out during our testimony before the Subcommittee, will increase the authority of State inspectors while allowing Federal inspectors to concentrate their efforts in States with the highest rail accident rates, or States not participating in the program.

Better Federal-State communication will also help avoid duplication of inspection efforts. Under current policy, FRA requires monthly activity reports from the States but provides no reciprocal report to the States. This sometimes forces States to "second guess" FRA, building the potential for duplicate efforts into the system. A stronger FRA railroad safety management program will help the limited number of Federal and State inspectors to better perform their responsibilities.

Again we thank you for your interest in the railroad safety program. With your continued interest and cooperation, we at the Missouri and Tennessee Public Service Commissions hope to participate in the continued growth of the program and continued savings in property and lives.

Sincerely,

CHARLOTTE MUSGRAVE,
Commissioner, Missouri Public Service Commission.

FRANK D. COCHRAN,
Chairman, Tennessee Public Service Commission.

AMERICAN ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICALS,
NATIONAL CONFERENCE OF STATE RAILWAY OFFICIALS,
Washington, D.C., April 20, 1982.

Hon. JOHN C. DANFORTH,
Chairman, Surface Transportation Subcommittee, Commerce, Science and Transportation Committee, Immigration Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request made at the conclusion of the hearings on the Federal Railroad Administration's rail safety program on April 13 that I write and indicate 1) whether there are any differences between a federal and state rail inspector and 2) which, if any, states would withdraw from the rail safety State Participation Program if no further federal funding is provided.

There are no basic differences between a federal and a state rail inspector. Each must meet the same qualifying requirements and each perform the same basic functions. Some states believe that the state inspectors are more responsive to local needs than are federal inspectors. In fact, it is primarily because of this responsiveness that some states decided to participate in the program. Another difference according to some states is the belief that the state inspectors spend less time than the federal inspectors investigating what are considered to be employee nuisance complaints. You will recall that during a number of Congressional hearings on rail safety complaints were heard to the effect that too much effort was expended by

federal inspectors on individual employee complaints thus seriously detracting from scheduled inspections. Also, state inspectors in some states spend more time on inspections and less time on reports and paper work than federal inspectors. The Appropriations Committees mandated that at least 15 days travel time per month be provided federal inspectors whereas some states require inspectors be in travel status at least four days a week. State inspectors are usually located throughout the state whereas federal inspectors usually have a multi-state territory responsibility. In a number of instances the state inspector receives a smaller salary than a federal inspector. In fact, this salary difference has been one of the principle causes for a number of states' inability to participate (or participate fully) in the program. With respect to the current funding issue, however, it should be pointed out that the smaller salary further reduces the federal cost of the program.

With regard to your second question, no state has made a specific commitment as to its future plans for the rail safety State Participation Program in fiscal year 1983. Such commitments cannot be anticipated until after the enactment of the U.S. Department of Transportation Appropriation Act for fiscal year 1983 when it will be definitely known whether or not the federal government intends to continue funding the program. Nevertheless, although no state has made a specific commitment to discontinue the program if federal funding is terminated, it is reasonable to assume that a number, if not most, states will cease to be participants.

Merits for continuing federal funding aside, it should be recognized that the termination of federal funding commencing in October 1982 provides an inadequate time frame for a number of states to react assuming there is a desire for a state to fully fund the program. State transportation departments are obliged to include such items in their budget and obtain approval by respective state legislatures. Considerable lead time is necessary for this process especially considering that a number of legislatures are on bienniums. Also, a number of state legislatures which have annual sessions will have completed their 1982 session by October. Thus, if the funding is terminated a number of states will be obliged to withdraw merely because of an inability to provide funding in a timely manner.

More significant than the question which, if any, states will withdraw from the program if federal funding is terminated, is the fact that if the funding is terminated the program will deteriorate regardless of whether states remain or withdraw from the program.

In those instances where states continue in the program the deterioration will be in the form of a lack of uniformity in administering enforcement. Presently, the program operates on a partnership basis with the federal government being the senior partner. Understandably, if the states fully fund the program they would not be obligated to rely solely on federal regulations. States will be free to set standards and procedures different from those imposed by FRA so long as the minimum federal standards are satisfied. Such confusion could be detrimental to railroads. In addition, there will be numerous instances of overlapping and duplication of effort between federal and state inspectors.

On the other hand, in those instances where states withdraw from the program, the program will deteriorate because the federal government will probably not increase its force sufficiently to compensate for the loss of state inspectors. You will recall that Administrator Blanchette testified emphatically to the effect that the 20 additional rail inspectors requested in the fiscal year 1983 budget were not to be considered in lieu of any state inspectors which may withdraw from the program due to termination of federal funding. If this is the case there will be a considerable void if any state inspectors are withdrawn.

I wish to point out, however, that the Office of Management and Budget does not concur with the testimony given by Administrator Blanchette. In a letter to Congressman Breaux dated March 29, 1982 from the Assistant Director for Legislative Affairs, Office of Management and Budget, it is stated that the Administration is proposing a total rail safety program budget authority increase of $3.1 million over the amount authorized for fiscal year 1982 and the grants-in-aid for rail safety. The OMB official states, "This increase will permit hiring of additional Federal safety inspectors to offset decreases which might result in the State programs as a consequence of the proposed cut-off of Federal funds." Thus, OMB is proposing to increase the budget by $5.1 million to perform the functions presently costing $2 million. Not only does this result in increased cost to the federal government but there is also no assurance the federal government will be able to completely offset the withdrawal of state inspectors. In any event, it is obvious that the federal govern-

ment does not plan to expand the program as indicated in Administrator Blanchette's testimony (i.e., 20 additional inspectors).

Sincerely,

WILLIAM T. DRUHAN,
Secretary, NCSRO.

Senator DANFORTH. The administration has taken a clear position. If we are going to take a counterposition, we are going to have to, I think, be able to answer those two questions. So if you could do that, I would very much appreciate it.

Thank you both very much.

Mr. DRUHAN. Thank you, Mr. Chairman.

[Whereupon, at 11:15 a.m., the subcommittee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Mr. Chairman and members of the subcommittee, my name is John C. Shapleigh. I am a Commissioner with the Missouri Public Service Commission. Accompanying me today are Paul Rodgers, General Counsel and Administrative Director of the National Association of Regulatory Utility Commissioners (NARUC), Rita A. Barmann, NARUC Director of Congressional Relations, and Donna Bolinger, NARUC Assistant Director of Congressional Relations.

The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental agencies of the fifty States and the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of utilities and carriers. Our chief objective is to serve the public interest by seeking to improve the quality and effectiveness of government regulation.

The members of NARUC appreciate your invitation to make known their views on the reauthorization of the Federal Railroad Administration's (FRA) railroad safety program in fiscal year 1983.

CONTINUATION OF THE GRANTS-IN-AID PROGRAM

Section 206 of the 1970 Railroad Safety Act [1] establishes a program of State participation in enforcement of Federal railroad safety standards. The program is administered by means of a Federal-State partnership, including State certification similar to the certification principles set forth in the Natural Gas Pipeline Safety Act of 1968. Those States certified to carry out investigative and surveillance activities on behalf of the Department of Transportation Secretary, and those States which have entered into agreements with the Secretary, provide money and manpower to ensure that safety regulations written in Washington, D.C. are, in fact, implemented throughout the country.

The members of the State regulatory agencies engaged in the regulation of common carriers across the Nation oppose deletion of the Federal grants-in-aid funding from the railroad safety program. We strongly support reauthorization of this program with funding of $2.7 million in the fiscal year 1983 Federal Railroad Administration's budget, in order to continue at least partial Federal funding of the program.

FRA's failure to provide 50 percent matching funds to States sharing the responsibiiity of enforcing Federal regulations places these States at a distinct economic disadvantage and may force some to drastically cut back their programs. These cutbacks are likely to reverse the trend toward safer railways that correlates directly with growing State involvement in FRA's railroad safety program.

There are currently 31 States participating in the program, with 92 State inspectors, including trainees. This represents almost 47 percent of the Nation's track and equipment inspectors. It is largely through the efforts of these State inspectors that FRA has been able to enforce Federal safety standards and thereby to reduce railroad accidents.

Each year, the Nation's railways destroy fewer lives and property. Accident rates dropped from 12.4 per million train miles (MTM) in 1979, to 11.4 per MTM in 1980, to 8.2 per MTM in 1981. For accidents attributed directly to faulty tracks or equipment, the figures are equally encouraging: from 9.3 accidents per MTM in 1978 to 5.9 per MTM in 1981.

These statistics provide tangible evidence that the Federal-State partnership provided for in the 1970 Railroad Safety Act is working. No longer is the railroad industry plagued by the 11,000 accidents per MTM that generated support for legislation in 1969. Regulatory officials are encouraged by this decrease, but recognize that the figures must drop significantly before the goals of the 1970 Railroad Safety Act can be considered as met.

---

[1] Codified as amended at 45 U.S.C. § 435.

Sixty percent of today's railways accidents are attributable to equipment or track defects, or improperly maintained track and roadbeds. These are the preventable accidents—the target of the railroad safety program.

Requiring the States, many of which are already struggling to meet their share of the matching funds, to carry the entire burden for participating in the program is not the answer. This will force many States to cut their efforts or to withdraw from the program entirely, leaving the FRA to cover the entire cost.

The provision of such financial assistance to State agencies will reduce the need for establishing a large Federal field staff and thereby permit the Congress to maintain its railroad safety program at far less that it would otherwise cost for the Federal Government to assume its entire financial burden. In other words, the use of matching funds, in effect, pulls State money into the Federal program. Moreover, it provides an incentive for the States to sponsor more comprehensive enforcement programs in support of the Federal scheme.

FRA studies show that an additional $2.2 million must be added to the fiscal year 1983 FRA budget to maintain the grants-in-aid program at its current level. To enable the program to keep pace with the need for expansion, $2.7 million is needed.

The advantage of the Federal-State partnership in enforcing railroad safety regulations goes beyond the millions of dollars saved by the Federal Government during the last 11 years. The partnership provides for a more effective administration of the program, in the spirit of the Administration's emphasis on returning to the States those responsibilities that can be more effectively handled by those closer to the particular needs of their constituents.

SUGGESTED IMPROVEMENTS IN FRA'S ADMINISTRATION OF THE PROGRAM

As important as adequate and dependable funding is to the State/Federal Rail Safety Program, there exist other, less tangible factors which contribute to the success of this cooperative effort. Specifically, the NARUC believes that State participation in enforcing Federal rail safety standards must be based upon strong cooperation and understanding between FRA and the States. During the early years of the State participation program, relations between FRA and the participating State agencies were often strained and confrontational. We believe that this adversarial relationship discouraged new States from entering the program, while at the same time resulted in inefficiencies in the participating States.

In later years, the relationship between the FRA and the States began to improve. We trace this improvement to the success of the State/Federal Task Force on Improvement of the State Participation Program which met in 1980. As a result of the work of this Task Force, which was comprised of FRA and State representatives, a spirit of cooperation and understanding began to appear in the Federal/State program.

Despite this improved atmosphere, however, FRA must take additional steps to ensure the fullest measure of State participation in the program: first of all, it is crucial that FRA finalize its revised State participation regulations at the earliest possible time. Although FRA proposed new regulations in June 1981 [46 Fed. Reg. 3288 et seq. (June 25, 1981)], final regulations have not yet been issued. These regulations are important to the States because when adopted, they will implement the provisions of section 4 of the Federal Railroad Safety Authorization Act of 1980 [P.L. 96-423] which expanded State participation to encompass enforcement of older Federal rail safety laws.[2] Although the 1980 Act is almost two years old, States are not able to take on these new responsibilities absent final regulations.

Secondly, we believe that FRA must make serious efforts to solicit the participation of States not currently in the participation program. As I have noted, the relationship between FRA and the States has at times been strained. By improving its relationship with the States currently paticipating in the program, and by encouraging nonparticipants to enter, we believe that the Federal/State rail safety partnership can be as successful as that which was established to oversee the natural gas pipeline safety program.

I believe that the growing level of State participation and the corresponding decrease in the number of rail accidents stand as the best evidence of the ever-increasing State commitment to the rail safety program of the Federal Railroad Administration. We urge your support for the program's continuation.

---

[2] The Safety Appliance Acts, 45 U.S.C. §§ 1-16; The Hours of Service Act, 45 U.S.C. §§ 61-64b; The Signal Inspection Act, 49 U.S.C. § 26; and the Locomotive Inspection Act, 45 U.S.C. §§ 22-34.

GRANTS-IN-AID: NUMBER OF STATES AND PARTICIPATING INSPECTORS AS OF MAR. 15

State	Track inspectors	Equipment inspectors	Total
Alabama	2	2	4
Arizona	[1]2	1	3
California	2	1	3
Connecticut	1		1
Florida	3	2	5
Illinois	4		4
Iowa	3		3
Kansas	1		1
Louisiana	1		1
Maryland	2	2	4
Michigan	4	1	5
Minnesota	2		2
Missouri	3		3
Nebraska	1	1	2
Nevada	1		1
New Hampshire	1		1
New Jersey	1		1
New York	[2]4	3	7
North Carolina	[2]2		2
Ohio	2	3	5
Oklahoma	2		2
Oregon	2	2	4
Pennsylvania	3	3	6
Rhode Island	[3]1	1	2
Tennessee	[3]2	[3]2	4
South Carolina	1	1	2
Utah	1	1	2
Vermont	1		1
Virginia	[3]2		2
Washington	2	2	4
West Virginia	4	3	7
Total	63	31	94

[1] 1 trainee.
[2] 3 trainees.
[3] Trainees.

STATEMENT OF W. C. HENNESSY

The issue before us is the continuation of the funding for State participation in the Federal-State Rail Safety Inspection Program. New York State believes it is important to continue this successful program which has proven that a Federal-State partnership in railroad safety can work.

New York State has been involved in railroad safety for many years. However, several recent milestones in the fast-changing railroad mode have intensified the State's efforts in railroad matters and rail safety.

First, the 1970 Federal Rail Safety Act for the first time established minimum national track and freight car safety standards and afforded the States an opportunity to participate in the monitoring and enforcement of these standards. New York State, being one of 31 states currently participating in the program, has for the past eight years shared with the Federal government the inspection staffing and administration costs for the program. This partnership in safety has enhanced the safety inspection capabilities of both the State and the Federal government through a coordinated scheduling of activities.

In addition, New York State has met the challenge of a deteriorating rail system brought about by the Northeast rail crisis. More than two billion dollars has been invested to upgrade rail passenger and freight facilities in the State. These investments also enhanced rail safety, and rail safety inspection efforts made possible by the Federal-State Program assured that any improvements undertaken met prescribed safety standards. It should be noted that over $100 million was invested in

Amtrak passenger service for upgrading track for speeds up to 110 m.p.h., station construction, and signal improvements.

Finally, New York has taken the lead nationwide in conducting a comprehensive statewide rail safety assessment. The assessment, undertaken to gauge the effectiveness of State investments and to broaden State involvement in rail safety, relies heavily on the cooperation and coordination of Federal rail inspection efforts in the State. Among the tasks are the following:

FRA investigators will examine adherence to railroad operating rules and regulations as well as adherence to procedures for moving hazardous materials.

New York DOT and FRA teams will jointly examine track condition and maintenance practices together with the condition, utilization and maintenance of locomotives and passenger and freight cars.

Federal inspectors will determine the adequacy of rail signal and communications systems and evaluate associated maintenance practices.

New York DOT investigators will inspect rail/highway grade crossings for adequate maintenance.

New York DOT also will be responsible for the review of railroad accident statistics and the analysis of trends.

This important assessment could not have been undertaken without the successful working relationships established by the Federal-State inspection program.

At a time when participation in the rail safety program is finally becoming both efficient and effective, its continuation is of the utmost urgency. Both the States and the Federal Railroad Administration, with assistance from various national organizations and committees, have developed a relationship that is now effectively monitoring rail facilities and operations from a safety point of view. Both New York State and the nation as a whole have experienced a downturn in accidents and derailments since the inception of their program.

New York State's experience has been that derailments averaged 184 per year during the decade of the 1960's and 272 per year during the 1970's. This increase occurred in spite of downturns in rail business. Part of the reason had to be deferred maintenance caused by financial problems which resulted in less than standard track conditions and equipment. New York State's experience has shown that derailments peaked in 1976, 1977 and 1978 and have been declining over the last three years. We attribute this to the huge investment that New York State has made in the rail industry and to increased inspection efforts resulting from more inspectors and a satisfactory partnership with the FRA in inspecting for and insuring the railroad's adherence to applicable Federal standards.

The railroads have accepted this partnership and, in fact, have cooperated fully with our certified inspection staff. These statistics indicate that this is a successful program.

The Federal Government and a great many states have made substantial investments in rail lines and facilities to insure continued services and safe operations. We cannot afford to let such investments deteriorate through any lack of maintenance and failure to meet appropriate standards. The primary source of the condition of such facilities is the safety inspector in the field. Since both parties invested as cooperative partners, such cooperation is still mandated to insure the continued upkeep of this public investment.

In keeping with the administration's spirit of federalism, any financial burden on the federal government that can be reduced by sharing the costs with the states should be welcome.

The participating states currently employ 93 inspectors. With the adoption of regulations adding additional disciplines to this program, authorized by Congress under the Federal Railroad Safety Authorization Act of 1980, the states will be relieving the FRA of any burden to increase their staff at 100% federal expense. In effect, we have a program that actually works.

In a time of disagreement as to the states' and federal government's financial responsibilities, it is inconceivable that a program progressing so well with shared expenses reducing costs to both parties can even be considered for reduced funding.

New York, in partnership with other NCSRO members, urges that a program that has already shown success over only a short period of time, certainly should be continued and, in fact, expanded. Such continuation and expansion would financially benefit both the states and the Federal government as well as the savings to the railroads in reduced accident and derailment costs.

Finally, New York State was one of eight states that recently participated with the Federal Railroad Administration in a cooperative venture to improve the Federal-State rail safety inspection program. The results of this successful task force effort were included in the DOT Secretary's December 1981 report to Congress enti-

tled: "Plan for Improving the Management of Railroad Safety Programs." The report states that the effectiveness of the FRA plan . . . "relies on industry, labor and government condition."

Discontinuing State funding of this program will decrease coordination efforts and will introudce cumbersome Federal and State inspections on the railroads. Worse, it would lead to a lessening effort in rail safety at a time when the Federal government and the States are placing increasing emphasis in rebuilding the nation's essential rail system.

STATEMENT OF THE IOWA DEPARTMENT OF TRANSPORTATION

The Iowa Department of Transportation appreciates the opportunity to present this testimony before the Surface Transportation Subcommittee of the Senate Committee on Commerce, Science, and Transportation relating to railroad safety.

Iowa is opposed to the Administration's proposal which eliminates funding of the State Participation Program of Railroad Safety. This is an efficient, effective, and essential program that must be continued to preserve public safety.

Iowa has been involved in the State Participation Program of Railroad Safety since 1974. We are a fully certified state in the area of track safety inspection with three state track inspectors who monitor the condition of appromimately 9000 miles of track. Over 6000 track safety defects per year have been located and corrected. This program has significantly improved the general condition of rail tracks in Iowa and has led to a significant reduction in the occurrence of track-related accidents. As a direct result of this program, the number of accidents and resulting dollar losses have decreased since 1978. In 1978, there were more than 300 track-related accidents resulting in more than $9 million damage to railroads in Iowa. In 1981, there were only 110 track-related accidents resulting in less than $3 million damage.

The Administration's funding proposal of $29.3 million for Railroad Safety does not include funding for the continuation of the State Participation Program. The proposal allows for 20 new federal inspectors and 4 new clerks at 100% cost for the federal governement, while it eliminates 50% federal funding for 93 state inspectors. The net result of this proposal could be a decrease in the nation's rail safety inspection force. The Iowa Department of Transportation feels that this will also result in a decrease in the safety effectiveness and progress that has been achieved by the program.

Elimination of funding for the State Participation Program appears to be inconsistent with the philosophical and budgetary approach being taken by the Administration in other program areas. At a time when the federal government is trying to reduce spending and the number of government employees, it is failing to take advantage of a state participation program which will allow for more enforcememt and monitoring at less cost. Congress should be encouraging the Administration to seek participation from all states while reviewing the need to eliminate federal inspector positions in areas where the state is providing the enforcement function. The existing program does an excellent job in blending federal and state involvement toward a program of uniform rules and enforcement for a nationwide industry.

The federal and state governments and the shipping public have invested millions of dollars in rehabilitating mainlines and branchlines across the nation. In Iowa, nearly $55 million in state, railroad, federal, and shipper funds have been invested in over 1000 miles of branchlines. A reduction in the monitoring of branchlines is imminent as a result of the Administration proposal. Executed contracts with the federal government provide for continued maintenance of the improved track for a period of 10 years at Federal Railroad Administration Class 2 safety standards. The reduced level of inspection contained in the Administration proposal will endanger the federal, state, and public investment which has been made to improve the safety and economic viability of these lines.

Physical improvements to the rail transportation system have permitted the safe movement of agricultural and industrial commodities at less cost throughout the nation. Substantial progress has been made by the state and federal governments toward rebuilding a run-down rail system. In Iowa, the successes and benefits of this joint effort are clearly demonstrated by a dramatic decrease in accidents and damage to property over the past 5 years. Despite these gains, we continue to find a substantial number of defects to track safety standards.

The transportation of hazardous materials by rail remains a serious concern to the public. Recent announcements of the movement of nuclear wastes across south-

ern Iowa and an increase in the movement of nuclear wastes, chemicals, and other hazardous materials by rail highlights the need for a safe rail system. In our judgment, it is inconsistent to reduce the level of safety inspection and relax the safety standards while the safe movement of hazardous materials remains an unresolved issue. The state and federal governments should continue working together to assure that a safe rail system is maintained and the public safety preserved.

We urge the subcommittee to take the action necessary to assure that the Administration does not eliminate the State Participation Program of rail safety.

STATEMENT OF THE FLORIDA DEPARTMENT OF TRANSPORTATION

In late 1977 and early 1978, the State of Florida experienced a series of catastrophic train derailments in northwestern Florida which killed eight (8) citizens, injured 158, and required the evacuation of thousands in four different communities. Subsequently, the Florida Legislature in June of 1978 passed legislation requiring the Florida Department of Transportation to assume responsibility for railroad safety inspection in accordance with the provisions for state participation under the National Railroad Safety Act of 1970 as amended. The Department in accordance with Florida Statute 351.35, .36 and .37 promulgated the federal minimum safety standards as state law, employed three (3) track and two (2) equipment inspectors and became certified by the Federal Railroad Administration to conduct track and freight car equipment inspections.

Since October 1, 1978, the Department has performed track and freight car surveillance and inspections in the state. A copy of the derailment statistics for Florida for the past 5 years is attached. Note that derailments in Florida have declined from 274 in 1977 to 52 in 1981. Also, attached is a comparison of the decline in derailments in Florida as compared to the rest of the United States.

Florida has recruited experienced railroad track supervisors and car inspectors all of whom have been trained and schooled at the Federal Railroad Administration's training school in Oklahoma City. The results accomplished by these inspectors in Florida are a strong argument for continuation of railroad inspections by the states.

There are approximately 6,262 miles of track in Florida, in the 7 year period between 1970 when the Federal Railroad Safety Law was passed, and October 1978 when the Department assumed inspection in Florida, the federal inspectors had not even covered once Florida's 6,262 miles of track. Since state inspection began, all main and branch line trackage are inspected annualy. For example, in 1981 alone, state inspector inspected 6,366 miles of track and listed 5,935 defects which were corrected by the carrier. During this same year, Florida's state inspectors inspected 19,462 freight cars and listed 4,904 defects which also were corrected by the carrier.

Florida's railroad inspectors are located throughout the state at district transportation offices, this reduces travel and per diem. Also, it is the states policy for the inspectors to meet with the mayors, city councilmen, and city engineers to explain the program and counsel the public officials railroad problems or concerns that they may have. State inpsectors are much more responsive to the city and county official than the federal inspectors were or can be. Under the federal inspection program prior to 1978, there was one federal track inspector in Jacksonville who also inspected Georgia and South Carolina and one in Montgomery, Alabama who inspected Alabama and Florida.

The proposed elimination of railroad inspection by the states represents a contradiction of the administration's policy of giving responsibility for programs that effect the grass roots public to the states. Why take this one, which is working so effectively in Florida, away from the state?

Public opinion in Florida strongly supports the concept that railroad inspections belong at the state level. The trains run through the country side and adjacent to the citizens' home and places of businesses.

Florida recognizes that minimum safety standards for railroads must be uniform nationwide and that the FRA should promulgate these standards. Florida's working relations with the FRA have been excellent. It has experienced no major administrative, funding or operational problems.

In summary, based on the results of Florida's railroad inspection program, we urge the continuation of this State Participation program with the state paying one-half the cost. The joint federal-state effort has proven more effective than any one state or FRA going it alone.

TRAIN ACCIDENT REDUCTION—FLORIDA VERSUS NATIONWIDE

Calendar year	Nationwide	Percentage of change	Florida	Percentage of change
1977	10,362		274	
		+8.8		−42.7
1978	11,277		157	
		−13.6		−28.7
1979	9,740		112	
		−13.2		−25.9
1980	8,451		83	
				−37.3
1981	(1)	(1)	52	

[1] Not available.

Note: Improvement 1977 through 1980—Nationwide 18.4 percent; Florida 69.7 percent.

RAILROAD DEPARTMENT STATISTICS
STATE OF FLORIDA
FIVE YEAR PERIOD 1977 - 1981

					CAUSE				COST						
		NO.	YARD	MAIN	TRACK	EQUIPMENT	OPERATIONS	MISC.	TRACK	EQUIPMENT	OPERATIONS	MISC.	TOTAL		
1977	2500	274	208-76%	66-24%	153-56%	42-15%	64-23%	15-5%	1,335,206-32%	1,696,351-40%	585,647-14%	611,537-15%	4,228,741	0	10
1978	4000	157	110-70%	47-30%	78-50%	25-16%	46-30%	8-5%	1,247,948-28%	890,353-21%	1,248,417-24%	1,177,994-27%	4,370,912	0	940
1979	4050	112	73-65%	39-35%	52-46%	21-19%	25-22%	14-13%	907,650-12%	1,320,452-18%	1,129,535-15%	4,099,498-55%	7,457,143	1	7
1980	0	83	50-60%	33-40%	26-31%	12-15%	29-35%	16-19%	807,202-42%	176,701- 9%	236,646-12%	723,549-37%	1,944,150	0	4
1981	0	52	34-65%	18-35%	16-31%	12-23%	22-42%	2- 4%	528,263-24%	626,801-29%	493,096-23%	662,560-31%	2,160,000	0	1

STATE OF ALABAMA,
ALABAMA PUBLIC SERVICE COMMISSION,
Montgomery Ala., April 9, 1982.

Mr. GEORGE E. HARDY,
NARUC Staff Subcommittee on Railroad Safety,
Labor & Industries Building, Salem, Oreg.

DEAR MR. HARDY: The Alabama Public Commission is seriously concerned with the proposed Fiscal Year 1983 budget reductions for the Gas Pipeline Safety Program as stated in our letter of February 12, 1982. There is an even greater concern for the proposed elimination of the funding appropriation for the Railroad Safety Program.

We are also concerned about the failure of the Federal Railroad Administration (FRA) to issue final regulations for state participation in areas of safety other than track and equipment as mandated by the 1980 amendments to the Railway Safety Act of 1970.

This Commission supports the recommendations made by the National Association of Regulatory Utility Commissioners (NARUC) in their letter of April 1, 1982, to members of Congress. Their suggested appropriation for both programs should be included in the Budget for the United States Department of Transportation for the 1983 Fiscal Year.

The intent of Congress in the passage of the Natural Gas Pipeline Safety Act of 1968, as amended, and the Railway Safety Act of 1970, as amended, was that there be a cooperative federal and state effort in the enforcement of the Federal Safety Standards and that participating states be reimbursed 50 percent of their expenditures in this regard.

We are led to believe there is an apparent misconception on the part of various federal agencies, and even in Congress, that the states will continue and can fully fund these programs. When seeking approval of state budgets to fund these programs, the Commission must present data as to the source of funding for the various programs. If we cannot state that 50 percent of our budget for these two programs will be reimbursed by federal funds, there is a possibility the proposed budgets will not be approved which will necessitate the curtailment or discontinuance of these programs in Alabama; we are confident this would also be the case in other states. It is rather apparent the federal agencies cannot fill the void if any state withdraws from these programs.

Since the states have become involved, the improvement of the safety records of Gas Pipeline and Railroad Safety has been well documented. Our letter of February 12th cited the effectiveness of the Pipeline Safety Program and the same is true of Railroad Safety. If Alabama, or any other state, does not continue participation in these programs, the public's safety and well being will be endangered.

Because of Alabama's participation in the Railway Safety Program the federal government has not only gained the valuable services of our well qualified inspectors, but it has profited more monetarily than our state.

We have been advised that the FRA collected a total of $26.4 million for violations of the Federal Safety Standards during the past four fiscal years. We do not have access to the information relating to final settlements assessed by the FRA against the railroads for violations of the Federal Safety Standards filed by state inspectors, but are confident the amount collected for these violations exceeds the amount reimbursed to the states. In this regard, the limited information we have shows that during the fiscal year 1981 the initial assessment for violations filed by Alabama inspectors exceeded $238,000 while our total claims for reimbursement for this period was only $88.9 thousand.

The assessment of penalties against the railroads or pipelines for the purpose of funding these programs is not advocated, but at times this appears to be the only means of obtaining adherence to the minimum Federal Safety Standards. Voluntary compliance and improved safety are our goals, and money paid in settlement of violations could be better utilized on maintenance and repairs

We sincerely solicit your support for the full funding and implementation of these important and vital safety programs for the coming fiscal years. Please advise if this Commission can be of assistance or furnish additional information.

Sincerely,

BILLY JOE CAMP, *President.*
LYNN GREER, *Associate Commissioner.*
JIM FOLSOM, JR., *Associate Commissioner.*

TENNESSEE PUBLIC SERVICE COMMISSION,
Nashville, Tenn., April 7, 1982.

Mr. GEORGE HARDY, Jr.,
Chairman, NARUC Staff Subcommittee on Railroad Safety,
Public Utility Commission of Oregon, Salem, Oreg.

DEAR GEORGE: I write to you in my official capacity as Vice Chairman of the Committee on Railroads of the NARUC to express my concern and that of the Tennessee Public Service Commission over the possible loss of funding for the Federal-State Rail Safety Cooperative Program currently pending before Congress.

I have attached to this letter a copy of the position being taken by the Tennessee Commission. I support the position of the TPSC, and I urge you to do the same through communication with those who represent you in Congress.

Sincerely,

KEITH BISSELL, *Commissioner.*

COMMONWEALTH OF VIRGINIA,
STATE CORPORATION COMMISSION,
Richmond, Va., March 25, 1982.

Mr. GEORGE E. HARDY, Jr.,
Administrator, Rail Safety Division, Public Utility Commissioner,
Labor & Industries Building, Salem, Oreg.

DEAR MR. HARDY: The Federal Railroad Safety Act of 1980, Pub. L. No. 96-423, authorized the Federal Railroad Administration (FRA) to expand its state safety participation program to encourage state participation in monitoring compliance with federal railroad safety standards. In order to encourage state participation, the FRA is authorized to pay up to 50% of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out investigative and surveillance activities prescribed by the FRA.

The State Corporation Commission, in reliance upon federal legislation and FRA encouragement, initiated a comprehensive program to assist the FRA in implementing and enforcing FRA track safety standards. The Commission supported enabling legislation which was enacted by the General Assembly in 1981, Acts of the Assembly, Chapter 363. The Commission in carrying out its program has been certified by the FRA and has hired two track safety inspectors.

It now appears that the Office of Management and Budget (OMB) is recommending that FRA funding for the state participation program be eliminated in the federal budget for fiscal 1983. The purpose of this letter is to go on record strenuously opposing OMB's position not to request funding for the joint federal-state participation program. Virginia, like most other states, has expended considerable resources in implementing the track inspection program only to have the Federal government threaten to withdraw funding in "mid-stream". Virginia has indicated its interest in the program by appropriating 50% of the cost to administer federal safety standards. We think it only fair that the federal government fund at least 50% of the cost for administering the federal government's own safety regulations. To abandon funding at this point would not decrease the cost of administering the federal safety program as the OMB indicates, but would increase the cost to the federal government of implementing federal safety standards. If state funding for the program is not continued, many states will be forced to abandon its effort to participate in the federal safety program, thereby increasing the cost of carrying out safety inspections to the federal government by requiring the FRA to bear the entire cost of administering the program, without any state contribution.

For the foregoing reasons, we respectfully request your assistance and support for federal funding of the joint federal-state safety program for fiscal 1983. Elimination of state funding not only appears to be contrary to the administrations proposals in reducing non-essential programs, but could jeopardize the safety and security of railroad employees and citizens who use rail service or live in the vicinity of rail lines.

Sincerely,

PRESTON C. SHANNON.